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ABSTRACT

Extensive evidence indicates that the Native family and society are "at risk," having been undermined by the existing non-Native child welfare, education, and justice systems. This paper examines issues in juvenile justice, child welfare, and family services with regard to control by Canada Native communities of their own social services. The document includes: (1) selected Ontario statistics on Native children in care, Natives in the criminal justice system, and costs to the provincial government; (2) jurisdictional disputes related to the delivery of social services on reservations; (3) strategies to expand Indian control of social services; (4) the effects of the Canadian Young Offenders Act and the Children's Services Act of Ontario on aboriginal peoples; (5) difficulties in the implementation of the (U.S.) Indian Child Welfare Act; (6) issues in foster care and adoption of Native children; and (7) community programs and initiatives addressing parenting skills education, prevention of child abuse and neglect, use of Native family courtworkers, substance abuse prevention, counseling and homemakers' services, and youth activities. Appendices provide related legal documents and information about the project. A bibliography contains approximately 100 entries, including research papers, legislation, program reports, statistical reports, and journal articles. (SV)

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Justice - Related Children and Family Services for Native People in Ontario

A Discussion Paper

Prepared for:

The Ontario Native Council on Justice

By:

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December 1981 (Revised)

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Justice-Related Children and Family Services

A Discussion Paper

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HIGHLIGHTS AND SUMMARY

OF

JUSTICE RELATED CHILDREN AND FAMILY SERVICES FOR NATIVE PEOPLE IN ONTARIO

Extensive evidence indicates that the Native family structure and society is "at risk" having been undermined by the existing Non-Native child welfare, education and justice systems. Disproportionate numbers of our children are in care, or victims of parental, community and governmental neglect and abuse.

The issue of Native child welfare, and particularly the development of prevention programs and substitute care in Ontario, has been a low or non-existent priority for most native organizations in Ontario until very recently. Attitudinal, jurisdictional, legislative, political and financial roadblocks have stood in the way of progressive changes. As a result most of the work in child and family welfare areas is in the developmental stages. Although, where there has been native managed or delivered services, significant strides have been made.

The implementation of new programs and projects such as: Step I of The Tripartite Social Services Working Group; ERA II of The Urban Task Force; Ontario Native Substance Abuse Program; Family Courtwork Program; and the reorganization of the Ontario Native Council on Justice itself makes it timely for the Native People of Ontario to carefully consider where we should be going in this critical area. A critical examination of our own personal and organizational experience plus models from other areas such as

the Spallumcheen Band, Indian Child Welfare Act should provide us with the background for dealing with the many questions that must be resolved.

In addition, the development and implementation of Ontario Corporate Policy regarding Aboriginal People: Constitution, the Young Offenders Act, and the Omnibus Bill regarding Children's Services, may provide the opportunity for the beginning of a process that will benefit our children, families and Nations for years to come. On the other hand, without an environment of trust and co-operation we may be sentencing our future generations to continual neglect and abuse.

FOREWORD

It is timely that the Ontario Native Council on Justice examines its role in the critical area of justice-related children and family services. At the 1975 Edmonton Federal/ Provincial Conference, which acted as the catalyst for the establishment of the Council, there was a large number of recommendations, some of which were directed specifically to the young native offender. Most of the Recommendations, though, could have equal application within the juvenile justice field. The Ontario proposals to the Edmonton Conference stated:

> *In exercising its' flexibility in procedure, the court must always keep in mind the good of the community as well as the upholding of the law. In matters of juvenile cases, the removal of a young person from the community when he returns, and the taking of children from their parents should be done by the court only with the greatest reluctance and as often as possible only where there are other members of the community that the parents are willing to allow to look after the children. The removal of children from the community is the first step toward the destruction of that community.*

The 1975 Conference Recommendations Made by the Minister - A.5 Guidelines for Action states: "In policy planning and programme development, emphasis should be placed on prevention, diversion from the Criminal Justice System to community resources, the search for further alternatives to imprisonment and the protection of young people." The Progress on Government Action Taken Since 1975 Edmonton Conference Paper, prepared by ONCJ in 1979, stated, concerning this child-related issue:

> *The Juvenile system seems to deal with problems in a reactive rather than preventative way. Greater importance must be given to prevention and diversion*

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programs. Policies and definitions are important, but a real commitment to these issues must be supported by adequate funds which will enable the successful implementation of such programs. Lack of action in this area is perhaps indicative of the low priority it is given in the criminal justice system.

Since 1978, the Ministry of Community and Social Services has reduced the number of secure treatment centres for juveniles. In theory and in practice, the Ministry is limiting the number of juveniles who will be exposed to the negative effects of training school. In spite of this major initiative, much more work needs to be done, particularly in the area of alternatives to training schools and community support services.

Given the terms of reference of the Council in part is "to help identify problems and to propose solutions" in the development of justice-related issues it is clearly within the mandate of the Council to take responsibility in this area.

It is hoped that this paper will help to spark thoughtful discussion and a reassessment of our children and our future.

A SUMMARY OF QUESTIONS RAISED IN DISCUSSION PAPER

Jurisdiction

1. Is the future of our children and families a priority for our political leadership and decision makers?
2. If we can't protect and nurture our own children and families, how are we ever truly going to take responsibility for our future?
3. Ontario is developing a Corporate Policy Statement regarding Aboriginal People in anticipation of the Constitution's patriation. Can we respond? Should we?

Legislation - Young Offenders Act

1. Should the Ontario Native Council on Justice, another Ontario organization or other mechanism make a presentation to the Cabinet Standing Committee or Solicitor General regarding Implementation strategies for Young Offenders Act?
2. Should the Council or another group in Ontario carefully examine the Ontario government's pre-implementation and implementation strategies for Young Offenders Act?
3. Is there an opportunity within Ontario's Implementation plan to sensitize judges, crown attorneys and the juvenile justice system worker to the special needs of Native children and families?

Legislation - Omnibus Bill for Children's Services

1. Examples of Questions that COMSOC is asking for the Laidlaw Seminar:

   (A) Should the responsibility for the delivery of child welfare services be transferred to Native organizations?

(B) Should child welfare agencies with Native children on their caseloads be required to have Native representation on their boards of directors?

(C) Before apprehending a Native child on or off a reserve, should the agency be required to contact the chief and discuss the alternatives to apprehension?

(D) What guidelines should be in legislation to improve the court's decision-making at the dispositional stage of child protection proceedings? E.g. should there be a preference for placing Native children with Native families?

(E) Should the judicial function be transferred to Native courts? If so, under what circumstances? Should the consent of the Native family be required?

(F) Should the same standard for child protection intervention apply to both non-Native and Native families?

(G) Should the agency be required to give notice of child protection proceedings to the chief and council? Should the band have a right to intervene in any child protection proceeding involving band children?

(H) Should a Native lay panel system be established to assist the court?

2. Is COMSOC asking the appropriate people the questions?

3. Are these the appropriate questions at this time?

4. What additional questions should be asked?

5. What additional research and consultation is required to anticipate the impact of these decisions on our communities?

6. The Social Services Tripartite Program for on-reserve Indians describes a process that will enable Indian impact in the legislative process during the latter steps. Are the three parties (DIA, COMSOC and Indian

organizations) prepared to go the whole six steps?

7. Is a one or two-week seminar consultation with Native experts appropriate and/or sufficient when you consider that decisions may be made that will affect our children's lives for generations to come?

8. Are the few thousands of dollars to be spent on this seminar process adequate when you consider that the present costs to the governments of Canada and Ontario on aboriginal child welfare alone are over 11 million dollars a year?

9. Is there a better process?

10. Are our communities at a point whereby they can provide the input necessary to answer such questions?

11. In spite of the Minister's assurances, it seems that the Province of Ontario is not interested or serious about consulting the Native people of Ontario in the child welfare legislation areas. What planning by Native groups must be carried out to ensure full and informed participation in the Omnibus legislation?

12. What resources - financial, informational and human - must be provided to ensure proper consultation?

13. Whose responsibility is it to provide these resources?

Indian Child Welfare Act

1. Is separate legislation similar to the American Indian Child Welfare Act necessary in order to protect our children or will existing services and proposed legislation provide the same protection?

2. What new institutions will have to be developed?

Adoption and Substitute Care

1. How can the Native organizations of Ontario work with ONWA in the critical area of adoption and substitute care?

2. Should there be, as Justice Thomas Berger recommended in the 1975 British Columbia Royal Commission into Family and Children Law:

(A) Increased involvement of Indian people at every level in the delivery of social services, including representation on child welfare review boards, community Resource Boards, and planning committees for the placement of Indian children.

(B) Support for Indian autonomy in the implementation and provision of preventive social programs in Indian communities.

(C) Recruitment and development of Indian foster and adoptive homes, as well as receiving and group homes on reserves staffed by Indian people.

(D) Hiring of more Indian consultants and line staff by social service and child welfare agencies.

(E) Increased training opportunities for Indian people in the field of social work, and recognition of the importance of "Indian expertise" in lieu of academic education.

(F) Orientation to Indian culture for non-Indian social workers who work with Indian people.

(G) Subsidized adoption as required for Indian parents wishing to adopt Indian children, and recognition of Indian custom adoptions as legal adoptions.

(H) Orientation to Indian culture for non-Indian adopting parents, and the signing of an agreement confirming their willingness to familiarize the child with his Indian heritage.

(I) Support for a network of legal services by Native people for Native people.

3. What can be done for those Native children who have already been adopted by non-Native families? Many of them

are status Indians but may be unaware of this fact.

4. How can Ontario play a role in resolving the problem of the International movement of Native children for adoptive purposes?

Delivery System

1. The Tripartite Social Services Task Group have a plan for eventual Indian control of social services. Should there be a similar plan for off-reserve Native people? If so, what organization would initiate it?
2. Would it be best to deal with the issues of representation on local CAS boards through, for example, the Children's Omnibus Consultation process or let local Native organizations and bands deal with the issues as the need arises?
3. Is there some means whereby co-ordination of children-related services at the community level can be achieved?

Parenting Skills and Developmental Programs

1. How can Native parenting skills programs be made available in Ontario? Who should be doing it?
2. How can we make available more Native child welfare developmental programs in Ontario? Who should be taking the initiative?

Family Courtworkers Program

1. How can we ensure the Native Family and Courtwork Program provides the best possible services to our children and families now and on a long term basis?
2. Does the Council have a role to play in the Family and Children Courtwork Program?
3. Is the OFIFC the best structure to house the Program?

4. If OFIFC is not the most appropriate structure, what structure is?

Alcohol and Substance Abuse

1. Should the Council through its member organizations be working more closely with the Alcohol and Substance Abuse Program of Ontario?
2. If so what kind of input should the Council provide?

Suggested Future Research Topics

Are the following proposed topics and questions sufficient to meet our long-term planning needs? Are there additional research areas that should be covered?

1. Paralegal Native Investigators - especially trained for child and family welfare issues.
2. Lay panels to advise judges.
3. Policy and guidelines re: family clinics. There will be more emphasis put on the predisposition assessment of juveniles. What criteria and standards will they use in making their assessments? Will they be culturally sensitive?
4. Tribal Court Systems.
5. The use of culturally appropriate treatment therapies for the Native problem child.
6. Statistics!
7. Matrimonial, Custody and Property Dispute on Indian lands.
8. The Child Welfare System and Native People - Canadian Council on Social Development - A two-year study with the following objectives:

(A) To identify and describe the weaknesses in

existing federal and provincial legislation, policies or programs which result in the provision of child welfare services to Native families which are inadequate or inappropriate.

(B) To detail some of the policy and program options which are being advocated by Native organizations in different parts of the country.

(C) To facilitate a resolution of the problems by providing information, advice and assistance to representatives of Native organizations, child welfare officials and provincial policy-makers who are attempting to develop feasible alternatives.

It is being prepared by Patrick Johnston.

3. Training Needs.

Concluding Questions

1. Is there a need for an overarching organization to begin filling the gaps in the field of child welfare and justice? If not, who's going to do it?

2. Do the Native organizations and Native people of Ontario have the time, energy, finances and more importantly the commitment to build a new organization?

INTRODUCTION

It would appear that a profile of the typical native youth offender would include: a community of origin which is economically impoverished, an unstable family background, a high degree of contact with social service agencies (particularly white foster homes), limited knowledge and participation in Indian affairs, a low degree of Indian culture and a great sense of alienation from the mainstream society.

Dr. Don McCaskill
Patterns of Native Criminality
1974

He found that the large majority of wards interviewed had a long history of family instability with over 50 per cent not living with their families at the time of their committal to training school. Fifty-eight per cent stated their parents were not living together with half feeling that at least one of their parents had a drinking problem. Over 50 per cent had lived in foster homes before coming to training school. It is clear that there is a direct relationship between delinquent behaviour and the destruction of the natural family.

According to Hepworth's Canada's Social Orphans, there are approximately 300,000 status Indians and 750,000 non-status Indians and Metis in Canada--a little over three per cent of the total population. Of these, over 40 per cent (i.e. 420,000) are children under 15 years of age. In 1976/77 the number of Native children in the care of the provinces as a proportion of all children in care ranged from 39 per cent in British Columbia to 40 per cent in Alberta, 50 per cent in Saskatchewan, 60 per cent in Manitoba and nine per cent in Ontario. (However, almost

19 per cent of children in the care of Northern Ontario agencies were Native children.) Overall, more than four per cent of status Indian children and over 3.5 per cent of all Native children are in the care of the child welfare services, both provincial and federal, while the figure for all Canadian children is only 1.3 per cent.

The problem cannot be looked at in isolation . . . that the issues of education, housing, health, migration, economic development and alcoholism cannot be excluded from any discussion of the problems of the young Native offender and destruction of the natural family. It is not the purpose of this discussion paper to present a lengthy description or exploration of Native conditions today and yesterday, but it would be useful to examine some of the circumstances around the destruction of the Native family.

> *It has only been recently that there have been homeless children: it can be said that this has been a direct result of the Christianization of the Indian people. When Indian People have been forced to acculturate, to have to go away to school, when missionaries imposed the Christian religion upon them, then it was that Indian communities began to fragment. As a result, Indian families which had been close and intact began to fall apart and relationships were not as close as before.*
>
> *The same has happened to people moving into urban areas. Indian people have in effect become homeless in the cities, and in many cases family life has been devastated. This has caused the instances of homeless children.*
>
> Professor Douglas Sanders
> 1974 Report for the Law Reform
> Commission of Canada

The systematic destruction of the Native family through the residential school system separated parents from children, broke down the extended family and created a generation of people who never had the opportunity to learn parenting skills.

Where once a healthy child-centred society thrived and developed skills, the lack of parenting skills and family support has left its scars on Indian people and the ensuing generations. The unavailability of appropriate social services, both on and off reserve (i.e. personal and family counselling, alcohol and drug abuse programs, etc.) has created a situation in which Native family life has been allowed to deteriorate to the point where apprehension of the children for their own protection seems to be the only solution, or delinquent behaviour becomes the healthy response to an unhealthy set of circumstances.

I SELECTED POPULATION CHARACTERISTICS - STATISTICAL

(A) General Population

Native population is approximately 162,000 or two per cent of the total population of Ontario.

Secretary of State estimates

Forty percent or approximately 64,800 are children under the age of 15 years.

Canadian Council on Children and Youth, Ottawa, 1978

The population by 1985 for ages under 15 years if present birth rate continues is expected to increase by approximately 36 per cent.

JAINS-Labour Market Problems of Native people in Ontario McMaster University, 1977

(B) Regional Differences

In Northwestern Ontario, the population increase is primarily due to the higher birth rate among Native people. If present trends continue, the Native population will constitute up to 25 per cent of the Northern Region. In Kenora district, Native people are expected to comprise one-half (50 per cent) or more of the population by the year 2000.

A Review of Socio-Economic and Demographic Data Northern Ontario 1980

(C) Social Assistance

In excess of 70 per cent of the total Indian population on-reserve receives social assistance.

Four out of five children receiving child welfare service are from Indian families. "Many Indian people receive welfare services"

Chronicle Herald, Halifax October 16, 1978

(D) Children in Care

Frequency of Reason for Admission of Indian Children Taken into Care from 25 Communities.

Reason for Admission		
1. Parents Drunk	39	22.5%
2. Lack of Proper Supervision/Care	39	22.5%
3. Parents in Hospital	20	11.6%
4. Deserted in Home	19	11.0%
5. Runaways	9	5.2%
6. Physical Abuse	7	4.0%
7. Marital Conflict	6	3.5%
8. Child Offender	6	3.5%
9. Unmarried Parent	6	3.5%
10. Parent - Child Conflict	6	3.5%
11. Lack of Housing	5	2.9%
12. Child Behaviour Problem	4	2.3%
13. Parents in Jail	4	2.3%
14. Child Drug Addiction	2	1.2%
15. Orphaned	1	.6%
TOTAL	173	99.99%

A Starving Man Doesn't Argue
Appendix D

In 1977 there were 1,169 Indian children in care in Ontario. Indian children in care constituted some 10% of the total number or ten times the national average. Nineteen per cent in Northern Ontario.

Canada's Social Orphans
Hepworth-Canadian Council on Social Development 1978

Overall 4% of status Indian children and over 3.5% of all Native children are in the care of the Child Welfare Services, compared to 1.33% for all Canadian children.

Perception 1978
Canadian Council on Social Development

The following figures represent the percentage of Native children in care of several Children's Aid Societies in 1976.

Kenora 88%
Rainy River 66%
Thunder Bay 46%
Kapuskasing 39%

Program Priorities for
Children's Services
1978
Children's Services Division
Ministry of Community and
Social Services

(E) Adoption

Between October 1, 1975 and September 30, 1976 of the 230 children over the age of 2 years advertised in the newspaper column "Today's Child" 45% were Native children.

Justice for Children Committee
1978

The percentage of status children adopted by Indian parents has varied from a high of 48% to a low of 13%; the average in recent years has been 23%

Hepworth, Canada's Social Orphans

(F) Native Inmates

1979 to 1980 Admission Statistics by Apparent Race to Adult Correctional Institutions in Ontario

Under 16

	Native	*Other*	*Total*	*Native % of Total*
Male	*14*	*42*	*56*	*25%*
Female	*13*	*4*	*17*	*76%*

Prior Experience with the Criminal Justice System

Altogether 84% (433) of the inmates reported that they had received convictions prior to the present experience. The average age at first conviction was 16.5 years. In fact 37% (156) of the recidivists were first convicted as a juvenile. The reported dispositions of these first convictions were as follows:

41 suspended sentence
32 fine
121 adult probation
33 juvenile probation
160 adult incarceration
61 training school

Given that so many had early experience with the courts, it is not surprising that a large number of jail inmates have an extensive history of difficulties with the law. What is surprising is that 80% of the inmates admitted that alcohol contributed to their first difficulty with the law.

Clearly the current experience is a continuation of a previously established pattern. A pattern which for many was set at a very early age.

Age at First Conviction

	Male		Female		Total	
	No.	%	No.	%	No.	%
Under 12	34	8.9	1	2.3	35	8.2
12 - 15	109	28.5	12	2.7	121	28.3
16 - 18	179	46.7	20	45.5	199	46.6
19 - 24	41	10.7	5	11.4	46	10.8
25 plus	20	5.2	6	13.6	26	6.1
Total	383		44		427	

The Native Inmate in Ontario (1981) Ontario Native Council on Justice and Ministry of Correctional Services

(G) Selected Financial Costs in Ontario for Native Persons

For Child Welfare under all agreements 1977 - 1978	$4,441,604
For Day Care under all agreements 1977 - 1978	$ 838,233
For Juvenile Corrections under all agreements 1977 - 1978	$ 123,233
For Juvenile Corrections Residential under all agreements 1977 - 1978	$ 250,000
	$5,653,070*

* Estimate for Status Indian people only under Fed/Provincial General Welfare Agreement 1965.

Appendix A-11, Federal-Ontario Cost Sharing of Registered Indians by Definition of Eligible Expenditures and by Means of Federal-

Reimbursement 1977 - 78.
Funding of Status Native Child Welfare Programme,
Ministry of Community and Social Services,
February 1980.

Total Estimated Costs for Native people in Ontario 1977-78*

$ 11,306,140

* It is reasonable to assume that at least an equal number of off-reserve aboriginal people would require services. A conservative estimate of costs related to Child Welfare Services, Day Care, etc. including off-reserve, Metis and Non-Status people 1977 - 78 as defined under G.W.A. would double the costs.

II JURISDICTION

Sub-Section 24 of Section 91 of the BNA Act reserves to Parliament the exclusive right to legislate for Indians. Section 92 of the BNA Act reserves to provincial legislatures the exclusive right to legislate on matters including what today are considered welfare matters, including child welfare. In keeping with this broad constitutional obligation, the policy of the Department of Indian Affairs has been to secure agreements with the provinces and territories to deliver child care services to Indian people. The extent of the Federal government responsibilities and in particular the level of financial responsibility for the care of Indian children has been the subject of debate and contention between the two levels of government for many years.

Prior to the end of World War II Hawthorn reports that neither the provincial Government nor private child welfare services operated to any extent on reserves. As is the case in so many other areas, reluctance on the part of provincial authorities to get involved in child welfare services to status Indians is based on financial considerations.

The 1967 Hawthorn Report, A survey of the Contemporary Indians of Canada said:

> *A number of provincial officials reported a pervasive fear of their political supervisors that the assumption of responsibilities was replete with such uncertain financial consequences that they would move toward agreement only with extreme caution and care.*

This pervasive fear still permeates much of the present negotiations around children's services today.

In his study of the Canadian child welfare services for the Canadian Council on Social Development, Philip Hepworth outlines some of the problems resulting from gaps in jurisdiction.

> *Jurisdictional disputes still mean that some status Indian children do not receive the protection of the child welfare services except in life or death situations. DIAND social workers can remove children from their own homes only with the permission of their parent, whereas it is the provincial social workers who have the authority through child welfare legislation to take a child into care when protection is needed.*
>
> *Theoretically, there need be no problem about apprehending status Indian children if DIAND would automatically pay for the full cost of the services. However, DIAND claims that it is responsible only for status Indian children on the reserve or off the reserve for a given purpose or limited period of time. Thus, paradoxically, some status Indian children do not receive child welfare services, or receive them only in extremis, whereas native children as a whole are over-represented in the children in care population.*
>
> *The arrangements between the federal and provincial governments ... bespeak tremendous arbitrariness and variability. Whether services are delivered or not depends on the local availability of resources and the personal judgement of local personnel.*

Many of the same problems facing on-reserve Indian children apply to the delivery of service to off-reserve Non-Status and Metis families and children. Although there is not the same jurisdictional question, the politics of poverty, local circumstances, local policies, and the judgement and skill of the front-line worker determine the quality and level of service provided to Non-Status, Metis, and off-reserve Indian people. As Hepworth says,

> *It can fairly be argued that the same holds true for the provision of child welfare services to all children; however the social and economic circumstances of most native children appear to leave them vulnerable to more arbitrariness or inconsistency in child welfare practices than is true for other children.*

With the possible inclusion of *"the aborginal and treaty rights of the aboriginal peoples of Canada (Indian, Metis and Inuit) recognized and affirmed"*, the jurisdictional issues may become even more clouded. In anticipation of the patriation of the Constitution, the Province of Ontario is embarking on the development of corporate policy statement as it relates to aboriginal people. Issues to be included are Social Services, Education, Resource Development, Local Government, etc. and the financial and legal implications to the province. (The patriation process is seen by some within the Provincial Government as a further opportunity to erode the powers of aboriginal people, particularly band councils.) Although this is an internal process, there is a recognition that consultation will have to take place with aboriginal people at some point in time. Completion is expected sometime within the next year before going to cabinet.

Recently, Indian Bands across the country have begun to articulate in social service terms their aspirations of self-government (jurisdiction), self-sufficiency, social responsibility and self-determination consistent with those ideas. The following examples may be cited:

(A) In Ontario, the Tripartite Task Group on Social Services states community services should be community based, Indian

determined, Indian specific and band controlled. A six step plan was developed that would, over a period of time address social service needs within the framework of Indian family, community life, and political aspirations. Step 1 has been accepted unofficially in principle by the Provincial/Federal governments. Ontario receives 95% payback from the Federal Government.

Step 1: *Indian Control of Indian Social Services (Tripartite)*

Objective: *To reinterpret the existing agreement and the provincial policy framework.*

Strategy:

(1) expand the role of the band welfare administrators to include social services planning for their bands;
(2) create a tri-level, tripartite (Ministry of Community and Social Services/Department of Indian and Northern Affairs/Associations) social services planning structure to co-ordinate program planning and linkage to other human services programs (health/education/employment etc.);
(3) provide staff training and technical assistance to band staff and band councils in social planning and social program planning;
(4) fund Association Social Service Units to provide resources to (2) and (3) above;
(5) involve bands in the definition of field staff roles in Ministry of Community and Social Services' units and Children's Aid Societies serving Indian communities;
(6) institute a policy (MCSS) of substitute care placement that directs Indian clients to care in homes of a similar community and tribal background;
(7) employ Indian languages in service delivery;
(8) provide training in Indian language, history and culture for non-Indian staff serving Indian clients;
(9) encourage bands to create prevention programs that will strengthen family and community ties;
(10) consult bands on standards for care for Indian clients;
(11) develop Indian foster homes with band councils;
(12) increase funding for group homes and day care in Indian communities.

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While accepting Step 1, with the rationalization of more effective service, there has not been acceptance of the concept of Indian control. This is perhaps due to (1) the Ontario Government's stated policy of Multi-culturalism -- everyone should be treated the same with no ethnic groups receiving special consideration, and (2) the jurisdictional implications -- recognition of Indian control would mean a perceived "giving up of power and ultimately control of resources and decision-making", and (3) financial considerations.

(B) On April 22, 1980, the Spallumcheen Indian Band of British Columbia passed a By-Law within the terms of the Indian Act R.S.P. 149 Section 81 which placed the "exclusive jurisdiction over any child custody proceeding involving an Indian child notwithstanding the residence of the child", and the Provincial Court transference of proceeding to the jurisdiction of the Indian Band where the proceeding involves the placement of an Indian child or the termination of parental rights to an Indian child. At this time it is too early to determine what effect such a by-law will have on the area of Indian provincial and federal jurisdiction. (See Appendix "A")

(C) The Report of the Ontario Working Group on Residential Services for Native People, submitted to Community and Social Services in 1981. The major recommendations for a centralized approach to native residential services was refused outright in favour of shifting the responsibility to the municipality level. The service would be subject to current legislation, municipality co-operation and financial availability. In spite of the extensive consultation and development process,

there was not the outcome consistent with the goals of providing appropriate services (Native specific), increased involvement in planning and adequate financing.

(D) The Native Canadian Centre of Toronto's "Family Needs Survey 1979" and their recent experience with Child Welfare authorities in the City of Toronto has taken the Native community to a new level of commitment and awareness. Robert S. Holota, the Counselling Unit Director of the Centre, said in a recent report: "If Indian people are to survive we must seek control of our children through the advocacy of maintaining the Indian child in the Indian community, but we must be prepared to back up our talk in court with resources to help families stay together."

QUESTIONS

1. *Is the future of our children and families a priority for our political leadership and decision-makers? In the western provinces some of the native organizations have used the issue as a vehicle to further their political aspirations of self-determination.*
2. *If we can't protect and nurture our own children and families, how are we ever truly going to take responsibility for our future?*
3. *Ontario is developing a Corporate Policy Statement regarding Aboriginal People in anticipation of the Constitution's patriation - can we respond? Should we?*

III LEGISLATION

In the Provincial and Federal Legislatures there are a number of significant changes being proposed and implemented that will have a major impact on the native child and family in the future. They will include the Federal Government's Young Offenders Act and the Province of Ontario's Omnibus Legislation for Children's Services. The introduction of this legislation may provide the Native people the opportunity to: (1) act as a catalyst for organizations and development of Native responses to complex issues such as child welfare and justice; (2) provide meaningful impact into (a) Legislative Developments, and (b) Implementation strategies; and (3) institutionalize program mechanisms that would better meet the needs of the Native people of Ontario.

(A) The Young Offenders Act

The Young Offenders Act (C-61) will replace the outmoded Juvenile Delinquents Act in an effort to reflect present practices and attitudes about young people. The new Act blends three principles: that young people should be held more responsible for their behaviour but not wholly accountable, that society has a right to protection and that young people have the same rights to due process of law and fair and equal treatment as adults.

Parental responsibility is explicitly recognized in the legislation. Parents will be encouraged and, if necessary, required to take an active part in any proceedings pertaining to their children.

The Act covers only those young people charged with specific offences against the Criminal Code and other Federal statutes, not offences against provincial statutes and municipal by-laws. It also states that a child below the age of 12 will no longer be considered accountable under Canadian law. Although the maximum age of criminal responsibility is set at 18, the provinces will be allowed the flexibility to select an alternate maximum. In Ontario this is expected to remain at 16.

The new legislation would formally recognize and sanction the practice of screening and diversion by providing an expanded range of sentencing alternatives together with the increased use of assessments and predisposition reports.

Unlike the Juvenile Delinquents Act, the new law would provide for both the specific right to counsel and for instruction of rights at all stages in the legal proceedings.

A wide range of sentencing dispositions are geared to meet the needs of juveniles and to take into consideration the rights of the victims of crime. The dispositions are:

- absolute discharge
- fine to a maximum of $1,000
- a restitution or compensation order for actual loss or damage to property, loss of income or special damages arising from personal injury,
- order for compensation in kind or by way of personal service,
- community service order,
- probation to a maximum of two years,

- committal to intermittent or continuous custody (not to exceed two years),
- provision for ancillary conditions (e.g. order of forfeiture of illegally possessed goods, prohibition of firearms).

In contrast to the Juvenile Delinquents Act which allows open-ended dispositions, the new Act specifies that sentences must be for a definite length of time not exceeding two years.

A provision has been included in the Act to ensure that each disposition is monitored continuously. A custody sentence will be reviewed at least once per year by the youth court or a provincial review board while non-custody dispositions are to be reassessed by the youth court.

Under the new Act, the records of a young offender will be destroyed and he or she given a "fresh start" once a sentence is completed and no further offences are committed for a qualifying period.

This uninterrupted crime-free period will be two years for those who receive summary convictions and five years for the indictable offences.

The Young Offenders Act is federal legislation presently in its second reading in Ottawa. During the second reading the Act goes to the Standing Committee on Justice and Legal Affairs where submissions from the public may be heard. The deadline for submissions was August 19, 1981, although there may be a possibility of the committee accepting a brief at this late date. Mr. William Corbett (613) 995-5389 is the Clerk of the Standing Committee.

(If enough presence is brought to bear, the federal government could include special legislative considerations for aboriginal people. This process would require intensive lobbying of committee members.)

The implementation of the Young Offenders Act is the jurisdiction of the Provincial Government with the inter-governmental negotiations in process for a number of years.

The existing Implementation Plan is to have a Federal Training and Orientation Unit which would be available to the province. (Judge Coward, originally from Manitoba and Alberta, has been appointed to head the implementation.) To date there has not been any significant Native input at this level regarding the implementation strategy. This may be a productive place to intervene.

Mr. Doug McConney of the Children's Policy Unit, Community and Social Services, is responsible for the co-ordination and provincial planning around the Young Offenders Act pre-implementation. The Province is working on the assumption that the Act will be made law sometime in the Spring of 1983. Through his office a consultation paper is being developed that would outline suggestions and procedures for implementing the bill throughout the province. This paper should be available shortly for distribution. It is hoped that the public consultation and final response would be ready for the Spring of 1982, leaving approximately one year for training, preparation of material and orientation of personnel and appropriate agencies.

To date there has not been any special consideration given

to aboriginal people in terms of the suggested provincial response to the Young Offenders Act or its pre-implementation stage. Mr. McConney requested the Native organizations' help in identifying appropriate agencies and organizations that copies of the consultation paper could be sent to.

Depending upon the availability of community resources, the Act would allow for positive developments in the area of:

1. Predisposition assessments - required if a judge is considering custody proceedings or movement to an adult court, otherwise it is at the discretion of the judge. This could be most aptly provided for with the aid of a Native Family Court Worker or a Native Probation and After-Care Officer; and
2. Dispositions - the flexibility allowed for in the legislation around the area of diversion options, community service orders, restitution and compensation, would require community youth services to be available; and
3. Advocacy - the Review of the Ontario Native Courtwork Program 1980 prepared for the Ontario Native Council on Justice and the Ontario Federation of Indian Friendship Centres, stated, "Under this new legislation it is our belief that courtworkers will be called upon to play a significant role in ensuring that Native young persons and their parents are adequately informed of their rights and freedoms under the Act and that they have real access to the best available legal representation and youth services."

In most Native communities these resources are not available. There have been a number of pilot projects implemented for adult offenders i.e. N'Amerind Community Service Orders and Diversion

activities through Remote Northwest Programs. If our children are to have such alternatives to detention available, this program area will have to be expanded considerably.

QUESTIONS

1. *Should the Ontario Native Council on Justice, another Ontario organization or mechanism make a presentation to the Cabinet Standing Committee or Solicitor General regarding implementation strategies for young offenders.*
2. *Should the Council or another group in Ontario carefully examine the Ontario government's pre-implementation and implementation strategies for Young Offenders Act.*
3. *Is there an opportunity within Ontario's Implementation plan to sensitize judges, crown attorneys and the juvenile justice system worker to the special needs of Native children and families.*

(B) The Omnibus Bill (Children's Services Act of Ontario)

In mid 1977, Children's Services Division of Community and Social Services was given responsibility for all Children's Services in the province. This development has required a considerable degree of policy and program consolidation and, in some cases, legislative reform as was the case in 1978 Amendments to the Child Welfare Act. In keeping with this general thrust, the province is preparing a major piece of legislation which would consolidate provincial child legislation under one Act. Existing legislation that would be affected include:

- The Charitable Institutions Act
- The Child Welfare Act, 1978, as amended Child Welfare Amendment Act, 1979
- The Child Welfare Municipal Payments Continuance Act, 1976
- The Children's Boarding Homes Act, 1978
- The Children's Institutions Act, 1978
- The Children's Mental Health Services Act, 1978
- The Children's Probation Act, 1978
- The Children's Residential Services Act, 1978
- The Day Nurseries Act, 1978
- The Developmental Services Act, 1974
- The Homes for Retarded Persons Act
- The Provincial Courts Act (part)
- The Training Schools Act
- The Unified Family Court Act (part)

The general format of the Provincial Consultation paper would include:

1. Preamble - A description of the Ministry's principles for Service Delivery, for example:

   (a) For most individuals in our society, and certainly for children, the family is the elementary social group. Services to children, therefore, ought to assist rather than compete with the family. It would follow, therefore, that preventive services and other means of maintaining family integrity must have enhanced priority.

   (b) Each child and each family is unique with unique needs which change from time to time. A primary factor determining the response to these must be the needs themselves and not the structures and requirements of agencies and institutions established to provide service.

   (c) All persons ought to have equal access to service in spite of regional or other

differences. This implies the existence or development (or at least availability) in all areas of an adequate spectrum of service from prevention to highly specialized residential care.

(d) Help is most effective when it is seen as a response to the person or family's own perception of its requirements. Service, therefore, ought to be provided in a fashion which acknowledges the necessity for the consumer to be involved in the process, adequately informed and protected against imposition of unwanted help with appropriate safeguards.

(e) All attempts to intervene in the life of of a child or family must be based on the utilization of means which recognize cultural uniqueness and also minimize external perceptions of differentness because of the need for care or assistance. This means that variance across ethnic, subcultural, regional and age differences where unjustifiable in terms of unique requirements.

Program Priorities for Children's Services in 1978

2. The Delivery System

3. Voluntary Services

4. Children in need of Protection

5. Rights of Children in Care

6. Adoption and Foster Guardianship

7. Young Offenders

8. Records and Confidentiality

The provincial government is working toward legislation that can be applied to native and non-native people alike, while being aware of the jurisdictional sensitivities around status Indian people. Dick Barnhorst, Children's Policy Development, (965-6237) is the major writer for COMSOC. Professor Brad Morse, of the Faculty of Law of the University of Ottawa has

produced a paper that makes specific recommendations in the area of Native Children's Services. This paper is an internal document and the only formal major research effort to date that attempts to come to grips with Native people's concerns within the context of the Omnibus legislation.

COMSOC is prepared to enter into a process with the Native people of Ontario to obtain input. They have publicly stated at the Ontario Native Women's Conference Annual Meeting 1981 that they welcomed the development of a steering committee that would provide input into the legislative consolidation process on behalf of status and urban Native people.

COMSOC has also obtained financing from the Laidlaw Foundation for a Seminar with Native experts in the social welfare field. It is their hope that through the workshop COMSOC will be able to receive specific direction on some of the major issues facing Native people today.

QUESTIONS

1. *Examples of questions COMSOC is asking for the Laidlaw Seminar:*

   (A) Should the responsibility for the delivery of child welfare services be transferred to Native organizations?

   (B) Should child welfare agencies with Native children on their caseloads be required to have Native representation on their boards of directors?

   (C) Before apprehending a Native child on or off a reserve, should the agency be required to contact the chief and discuss the alternatives to apprehension?

   (D) What guidelines should be in legislation to improve the court's decision-making at the

dispositional stage of child protection proceedings? e.g. should there be a preference for placing Native children with Native families?

(E) Should the judicial function be transferred to Native courts? If so, under what circumstances? Should the consent of the Native family be required?

(F) Should the same standard for child protection intervention apply to both non-Native and Native families?

(G) Should the agency be required to give notice of child protection proceedings to the chief and council? Should the band have a right to intervene in any child protection proceeding involving band children?

(H) Should a Native lay panel system be established to assist the court?

2. Is COMSOC asking the appropriate people the questions?

3. Are these the appropriate questions at this time?

4. What additional questions should be asked?

5. What additional research and consultation is required to anticipate the impact of those decisions on our communities?

6. The Social Services Tripartite Program for on-reserve Indians describes a process that will enable Indian impact in the legislative process during the latter steps. Are the three parties (DIA, COMSOC and Indian organizations) prepared to go the whole six steps?

7. Is a one or two-week seminar consultation with Native experts appropriate and/or sufficient when you consider that decisions may be made that will affect our children's lives for generations to come?

8. Are the few thousands of dollars to be spent on this seminar process adequate when you consider that the present costs to the governments of Canada and Ontario on aboriginal child welfare alone are over 11 million dollars a year?

9. Is there a better process?

10. Are our communities at a point whereby they can provide the input necessary to answer such questions?

11. In spite of the Minister's assurances, it seems that the Province of Ontario is not interested or serious about consulting the Native people of Ontario in the child welfare legislation areas. What planning by Native groups must be carried out to ensure full and informed participation in the Omnibus legislation?

12. What resources - financial, informational and human - must be provided to ensure proper consultation?

13. Whose responsibility is it to provide these resources?

(C) Indian Child Welfare Act - Publication 95-608

1. Legislation

There was frequent mention of the American Indian Child Welfare Act during the consultation. The following is a history and explanation of the Act, with some of the major problems to date around its implementation.

> *Indian families and children, like all American families, deserve to be protected and supported by government rather than ignored or destroyed. The rights of Indian families to raise their children as they wish have not always been respected by government. Today, up to 25 percent of all Indian children are raised in foster homes or adoptive institutions. Some of these placements are unwarranted, and many could be prevented if proper social services as well as sufficient education, economic and housing resources were available to Indians.*
>
> Indian Family Defence Publication
> December 1978

The above statement is a reply made by President-Elect Carter when asked whether his administration would recommend legislation and adopt administrative reform to protect and strengthen American Indian family life.

On April 8-9, 1974, Senator James Abourezk chaired the Indian-Child-Welfare-Oversight Hearings held by the Senate Subcommittee on Indian Affairs. During these hearings, there was an enormous response from Native peoples across the United

States supporting a change in services and protection of rights of the Native American child and his family.

On August 27, 1976, Senator Abourezk introduced the Indian Child Welfare Act of 1976. The Act was intended to:

1) eliminate Indian parent-child separation,

2) end discrimination that prevents Indian families from qualifying as foster or adoptive families, and

3) provide Indian communities with comprehensive child welfare and family-service programs.

Congress finally passed the Indian Child Welfare Act on November 8, 1978 - Public Law 95-608. (Appendix "B" - Public Law 95-608 - Indian Child Welfare Act)

Prior to the introduction of this Act, there were various groups in some areas throughout the country who were trying to deal, in their communities, with many of the issues which were being addressed in the 1974 hearings. One such group was the Native American Child Protection Council which was established in 1972 as a non-profit organization whose purpose was to respond to the needs of many Indian families, particularly relating to Indian children. It was run on a volunteer basis with no grants. The organization was concerned with the practices and policies of various social services agencies as they affect the lives of the Native American community, i.e.: placement of Indian children in non-Indian foster and adoption homes with little regard or respect for the Indian child's racial and cultural heritage. Much of the Council's work was in the area of placement of Indian children in Indian homes, also recruitment of these homes. There were many groups who,

through various methods, and, in most cases as volunteers, did the same type of work as the Native American Child Protection Council back in the early 70's. The introduction of the Indian Child Welfare Act, 1978, has recognized what these people have been saying for years regarding the Indian child's need for cultural identification, values and environment!

When the Indian Child Welfare Act was passed in November 1978, many Native people of the United States felt that this was a big step forward with regard to Native children's rights being protected. They felt their major victories within the Act were as follows:

(a) Tribes could take steps to intervene in Indian child cases dealing with: i) foster care placements, ii) termination of parental rights, iii) preadoptive placements, and iv) adoptive placement hearings.

(b) Any foster care or preadoptive placement preference shall be given to:

- members of the child's extended family
- other members of the Indian child's tribe
- other Indian families
- licensed Indian foster homes
- institutions approved either by the child's tribe or operated by an Indian organization

(c) Placement preferences of the Indian child or parent shall be considered. Standards applied in meeting the preference requirements shall be the prevailing social and cultural standards of the Indian community.

At a recent conference on Indian Health and Human Services,

Mr. Browning Pipestem, a Native attorney from Norman, Oklahoma, shared with the participants some of his views regarding the Indian Child Welfare Act. He felt that, in many cases, Indian people were misinterpreting the Indian Child Welfare Act and reading more into what was its actual intent and purpose, thus blowing the whole document out of proportion. He tried to make the participants aware that the Act was directed to the state court and agencies. The Act bears little relationship to the tribal system, nor does it create a standard for Indian courts. He stressed the importance of the tribal courts developing their own codes and system in dealing with Indian Child Welfare Act cases.

Basically what the Act does do is this: it appoints the Indian tribe to monitor the state court and agencies' performance regarding the use of the Indian Child Welfare Act. This, he felt, was the most important aspect of the Act, and he stressed the importance of the tribe's setting up a monitoring system which would be able to deal with cases pertaining to the tribe.

Because the Act is very new, problem areas are just beginning to surface. One such area is that of child custody. Sometimes one parent takes a case to the tribal court, and the other parent deals with the state court. This can produce different rulings and bring about a state court versus tribal court decision.

2. Tribal Court System and Support Services (resource person: Theodore Holappa, Tribal Judge, Keweenaw Bay Tribal Center,

Michigan)

Keweenaw Bay Tribal Court was established in 1972, and presently consists of one chief judge and one associate judge. Funds are provided by the Bureau of Indian Affairs to operate the court and assist in ongoing training of tribal judges.

Tribal Court has the final say in the administration of the Indian Child Welfare Act. It must finalize and create some type of response to the case presently before it.

The Tribal Court requires quite a strong support system, both internally and with external agencies.

The Child Welfare Committee is one such group which has been developed by the Tribal Council to assist the Tribal Court. Members of this committee are appointed by the Council from members of the community, and are responsible for all matters dealing with the Indian Child Welfare Act.

The Committee has decided it will intervene in every Indian child welfare case, but may not necessarily ask for the transfer of every case. Once the Committee intervenes, they can then request that the Court obtain files regarding the specific case. The Committee studies the case and makes a decision regarding the transfer of the case from state to tribal court. The Tribal Court holds transfer hearings on whether to accept or reject cases brought before them. If the Tribal Court accepts a case, a petition for transfer is required. The Tribal Court deals with a number of agencies regarding Indian child welfare cases, i.e.: Michigan Child Welfare Agency, Child Protection Workers. The Child Welfare

Committee assists in the development of the case with agency workers. Once the case is ready, the Tribal Court begins to hear evidence and comes to some decision.

The Michigan Child Welfare agency reports to both the Child Welfare Committee and the Judge of the Tribal Court when reviewing cases, etc.

The Keweenaw Band is in the process of building a Tribal Foster Group Home for the care and treatment of Indian children.

Urban Indian Child and Family Service Programs:

Resources - Buddy Raphael
Tribal Chairman
Grand Rapids, Michigan

Philip Alevie
Indian Child and Family Service Worker
Lansing, Michigan

The secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs.

Many types of these programs are just beginning to develop. The types of services offered vary in order to meet the needs of their areas. However, all programs seen address the following areas of importance:

(a) Insure that the provisions of the Indian Child Welfare Act are adhered to in the judicial systems.

(b) Decrease the number of Indian children being taken out of the family unit.

(c) Increase the number of Indian foster care homes.

(d) Operate and maintain facilities and services for counselling and treatment of Indian families and Indian foster and adoptive children.

Areas of concern in these types of programs are to be recognized by family services, courts, social services, and foster care agencies, who try to work together on cases dealing with Indian children. The training of the community regarding the rights and needs of Indian children will make the community fully aware of how the Act works.

For many years, Indian people have worked very hard for the realization of an Act of this kind, but unfortunately have failed to follow through in the area of building up resources such as Indian and foster adoptive parents. If the Indian foster adoptive placements are unavailable, the child will have to go into a non-Native environment, and it would be the responsibility of the worker to ensure that Native resources are utilized to benefit the child and his cultural differences.

Native child welfare programs are finding that adolescents are placement problems among both Native and non-Native homes. Tribes cannot or will not find the monies which are needed to run and staff programs needed to carry out full services which can respond properly to the child's needs. Shortage of qualified, trained Native staff is also a problem.

Indian tribes are going to be faced with serious questions about what kinds of services they have available.

The Indian Child Welfare Act/1978 is definitely a good piece of legislation if the Indian people are ready to take responsibility. This would require the Indian people to monitor very closely every phase of the Act, working very

closely with outside agencies, and, most important, being able to build up the family and community structure and services to ensure the best possible care for their children.

QUESTIONS

1. *Is separate legislation similar to the American Indian Child Welfare Act necessary in order to protect our children or will existing services and proposed legislation provide the same protection?*

2. *What new institutions will have to be developed?*

ISSUE DEVELOPMENT AND CONCERNS

During the preparation of this discussion paper, a number of individuals both Native and non-Native were interviewed who are actively involved in shaping the future of our children in Ontario. (See Appendix E.) It was not a scientifically representative sample, as was the case in the Social Services Review or the Urban Task Force Study, but rather a cross-section of people who could provide a perspective based on experience. For the sharing of their time, thoughts and feelings, we are extremely grateful.

The following are some of the issues which surfaced during the interviewing process:

(A) Adoption and Substitute Care:

At the recent Ontario Native Women's Association annual meeting, three resolutions were passed dealing with native child welfare and adoption policies. They read as follows:

Resolution #13

Be it resolved that the ONWA Board of Directors make recommendations to the C.A.S. to evaluate the adoption policies as they presently exist with a view to changing any part of the C.A.S. policies that adversely affect Native people from becoming potential adoptive parents.

Resolution #6

Be it resolved that ONWA work to establish a communication system between the Social Services Review Planning Group and the Task Force on Native People in the Urban Setting working group in order to ensure that the Native Child Welfare Program includes a steering committee comprised of Native people and especially ONWA Board members.

Resolution #10

Be it resolved that ONWA participate fully and strongly in all consultation regarding any changes in the adoption procedures affecting Native children and how they are to be placed in adoptive or foster homes.

Annual Meeting
Ontario Native Women's Association
July 1981

These resolutions are a landmark in that for the first time one of the major Native organizations in Ontario has stepped forward to address children's welfare issues as a priority.

Many changes must occur, both within the delivery systems and within our own communities and families for there to be a change for the better.

As of June 30, 1980, there were 1152 Native children in care in the Province of Ontario. (From the Children's Aid Society's Monthly Statement Report, Form V.) Many of our parents often feel inadequate, confused, ill-prepared and powerless in the face of the authority of Children's Aid Society's workers and the Family Court System.

Positive approaches to this problem have been tried in other parts of the country.

1. The "Duncan Project" in British Comumbia hired two women from the Cowichan Band to conduct an information exchange on adoption and fostering for the Band. Though Duncan was reported at that time to have the worst housing problem of any reserve in the country,

these women succeeded in finding adoptive parents for seven children and foster families for three more. Their home studies reflected Indian standards of adequate parenting, rather than material and economic concerns. An outgrowth of the project was increased Band responsibility for child welfare through the establishment of a receiving home and a hostel for families on the reserve, as well as the hiring of the two part-time social workers exclusively for the Cowichan Band.

2. From October 1975 to June 1976, the Voice of Alberta Native Women's Society, with assistance from Alberta Social Services, employed 22 Native women to promote foster cases and recruit foster homes among Native families throughout that province. Each of the women worked in her home community, determining the number of children living with their relatives who were entitled to receive foster care subsidies, explaining the foster care program to Native families in their own language, and acting as liaison between interested families and the social worker until the families felt comfortable with the worker. In addition, the women identified

community programs that would help prevent family breakdown - babysitting, homemakers, recreation, health care, alcohol abuse, personal and family counselling. The project identified 257 Native families willing to provide foster care. Of these, 103 were approved by the Department of Social Services, and 79 were to be given consideration at a later date. Annie Cotton, the foster care worker for the Lethbridge area, describes some of the reasons for the success of the project:

> *The native families were very much in favour of the program. They thank me for taking the time to see them, that I got them involved. Everywhere I go, people stop me to know more about my duties. Who would be qualified to be foster parents? Some want to be of service, to take in foster children, because they understand about the problems. Sometimes I end up counselling couples who I happen to come by and are in the midst of disagreements. Door to door is very much appreciated as people don't have transportation. It does make me feel good, and themselves, that there is someone who cares to listen and talk.*
>
> Snowsill - Our Children, Our Future (Research Report)

The success of these two projects indicates that there are Native families able and willing to provide foster care for Native children, provided that their involvement is encouraged by Native workers in the community who speak their language and can provide the necessary support. They are considered to be model projects for the recruitment of Native homes by both the

provincial social service agencies that supported them.

On May 5, 1980, Steven Unger, Executive Director, Association on American Indian Affairs, Inc. (432 Park Avenue South, New York, NY 10016) made the following summarized statement to the Commission on Immigration and Refugee Policy:

> *The AAIA urges the Select Commission on Immigration and Refugee Policy to investigate whether large numbers of Canadian Indian children are being brought into the United States illegally for placement in adoption and foster care.*
>
> *Extensive evidence indicates that large numbers of Canadian Indian children have been brought into the United States for adoption. This has been a grave concern of Indian people on both sides of the border for a number of years. Testimony by Indian people has indicated that existing non-Indian child welfare systems in both countries have seriously undermined the Indian family structure.*
>
> *In enacting the Indian Child Welfare Act in 1978, Congress legislated a long-overdue reform of Indian child-placement practices in the United States. The Act will halt the unwarranted removal of American Indian children from their families. It would be tragic, however, if the reforms adopted here, by limiting the number of Indian children available for adoption, unintentionally exacerbate pressure to transport Canadian Indian children into the United States for adoption.*
>
> *The recommendations of the Association ask the Commission to examine the scope of the problem, and to seek legislation to provide the same safeguards for Canadian Indian parents and children as are accorded American parents in the United States.*

QUESTIONS

1. *How can the Native organizations of Ontario work with ONWA in the critical area of adoption and substitute care?*

2. *Should there be, as Justice Thomas Berger recommended in the 1975 British Columbia Royal Commission into Family and Child Law:*

(a) Increased involvement of Indian people at every level in the delivery of social services, including representation on child welfare review boards, community resource boards, and planning committees for the placement of Indian children.

(b) Support for Indian autonomy in the implementation and provision of preventive social programs in the Indian communities.

(c) Recruitment and development of Indian foster and adoptive homes, as well as receiving and group homes on reserves staffed by Indian people.

(d) Hiring of more Indian consultants and line staff by social service and child welfare agencies.

(e) Increased training opportunities for Indian people in the field of social work, and recognition of the importance of "Indian expertise" in lieu of academic education.

(f) Orientation to Indian culture for non-Indian social workers who work with Indian people.

(g) Subsidized adoption as required for Indian parents wishing to adopt Indian children, and recognition of Indian custom adoptions as legal adoptions.

(h) Orientation to Indian culture for non-Indian adopting parents, and the signing of an agreement confirming their willingness to familiarize the child with his Indian heritage.

(i) Support for a network of legal services by Native people for Native people.

3. What can be done for those Native children who have already been adopted by non-Native families? Many of them are status Indians but may be unaware of this fact.

4. How can Ontario play a role in the resolution of the problem of the international movement of Native children for adoptive purposes?

(B) Delivery Systems

At this time, the number of Native people working for Children's Aid Societies across the province is unavailable, although it is quite apparent that some jurisdictions have made efforts to hire Native staff, and the number is increasing.

With regard to representation on the Boards of Directors for Children's Aid Societies, the situation ranges from the Six Nation' Children's Aid Society, where Indian people have been delivering services through their own society for many years, to no Native representation, despite the significant Native case-load. In Northwestern Ontario, Grand Council Treaty #3 and its bands have had to apply considerable pressure to obtain more than token representation on a Children's Aid Society Board of Directors in their region.

During the interviews, it was pointed out that there was a definite need for greater co-operation and co-ordination of services at the community level. In many areas the trust level among the different agencies and workers is very low, which works against the healthy development of child, family and community. In some cases, there is a fear among front-line workers that the sharing of information with particular agencies or individuals will hurt the child or family in possible future legal proceedings around their case. In addition, Native organizations and staff are frequently perceived as having no status by Social Service agencies. This attitude of superiority limits co-operation.

QUESTIONS

1. *The Tripartite Social Services Task Group has a plan for eventual Indian control of social services. Should there be a similar plan for off-reserve Native people? If so, what organization would initiate it?*

2. *Would it be best to deal with the issues of representation on local C.A.S. boards through, for example, the Children's Services Omnibus Consultation process, or let local Native organizations and bands deal with the issues*

Inmate Survey - ONCJ 1981: 80 per cent of inmates said "alcohol contributed to first problem with the law."

QUESTIONS

1. *Should the Council, through its member organizations, be working more closely with the Alcohol and Substance Abuse Program of Ontario?*

2. *If so, what kind of input should the Council provide?*

(F) Counselling and Homemakers' Services

A number of people mentioned the need for juvenile counselling and family counselling (crisis and social). In Moose Factory, for example, there is a Native Adolescence Counsellor (Mental Health Worker) through Queen's University. She accepts referrals from C.A.S., the school and the psychiatric clinic. Much of the preventive work is around cultural events. Shawl-making for discipline-problem girls. Informal once-a-week discussion groups. Drum group, feasts, youth-elder gatherings, concerts. They require a male counsellor. The boys have a difficult time relating to a young woman counsellor.

Homemakers have been identified as being required where there are families that need:

1. help in terms of housekeeping and child-care, otherwise losing the children for neglect, or

2. in aiding a mother to readjust to the return of children from care. This would also require financing to recruit and train the homemakers.

QUESTIONS

1. *How can we ensure the Native Family and Courtwork Program provides the best possible service to our children and families now and on a long-term basis?*

2. *Does the Council have a role to play in the Family and Children Courtwork Program?*

3. *Is the OFIFC the best structure to house the Program?*

4. *If OFIFC is not the most appropriate structure, what structure is?*

(E) Ontario Native Substance Abuse Program

This program is presently in the process of negotiating funds, restructuring and developing its long-term goals. The community-based programs have alternative programs for youth and adults. Depending on the priorities of the communities and the staffing available some youth prevention work has been initiated. In many communities, it is the only form of youth services available. In many of our communities, the pattern of substance abuse is emerging among children at increasingly younger ages:

Youth with "nothing to do" (neglected)

Gas, glue, alcohol, etc.

Stealing

Violent Behaviour

Vandalism

Trouble with the law

The relationship between substance abuse, alcohol abuse and the Native offender is well documented, i.e.:

worked out jointly by the local C.A.S. and Band Councils. Walpole Island and Osnaburgh have recently submitted proposals under the same program. Such developmental programs seem to provide the opportunity for the communities to start seriously to come to grips with their own problems in their own way.

QUESTIONS

1. *How can Native parenting skills programs be made available in Ontario? Who should be doing it?*

2. *How can we make available more Native child welfare developmental programs in Ontario? Who should be taking the initiative?*

(D) Family Courtworkers Program

The Ontario Federation of Indian Friendship Centers has taken the initiative by proposing a pilot project to include five family courtworkers to be housed out of selected friendship centers and funded by the Province of Ontario. Clearly, the need has been demonstrated in the Review of the Ontario Native Courtworker Program and many other recent studies. This is a new program and potentially can have a great impact on how our children and families, both on reserves and off, are treated by the court system. The general feeling was that this program should be directed more to child welfare rather than justice areas as such. This suggestion is based upon perceived need. An overriding concern was that it be done right or not at all. This concern held true for all programs related to children.

as the need arises?

3. Is there some means whereby co-ordination of children-related services at the community level can be achieved?

(C) Parenting Skills and Developmental Programs

In a number of places across the country, a number of programs have been started to intervene at the parent level in order to attempt to break the patterns of child neglect and the disruption of the natural family by the judicial and welfare system.

There is an interest within the Community Resource Center in Thunder Bay, directed by Mrs. Edith MacLeod, to get a pilot project going related to developing parenting and coping skills for Native women in Northern Ontario. The Native Counselling Services of Alberta has a program entitled Family Life Improvement Program (FLIP) which focuses on helping mothers deal more effectively with their children. Through the program, they hope to reduce parental abuse and neglect and to support the parent during the process of reuniting with a child who has been removed from the family.

Through the COMSOC's On-Reserve Child Welfare Program, funded 95% by the Department of Indian Affairs through the Social Services agreement, a number of community-based, culturally appropriate services are being implemented throughout reserves across Ontario. The Rainy River pilot program evaluation showed "a reduction in non-Native off-reserve care and an increase in on-reserve care particularly in the placement of foster children." The programs are

(G) Residential Services for Native Children and Families

This was frequently described as a need.

(H) Justice-Related Education in the Schools - i.e. : Rights

(I) Police Behaviour

Police behaviour was in many cases in the North described as brutal, or there was use of excessive force. There was concern about the children losing respect for the law when they see their parents hurt by the police. One person felt that there should be an inquiry into police brutality in the North. It affects not only Native people but non-Native people also.

(J) Youth Development

A number of communities have strong Native youth clubs, as in North Bay and Thunder Bay. Youth Resource Committees have also been developed. Leadership, responsibility, inter-personal and social skills are some of the benefits to participants.

The Li'l Beavers' program, this past year, has been decentralized to Community and Social Services District Offices, with each center responsible for negotiating their own contract. The program is in the process of expansion with five new clubs to open in 1982, and a potential for more in 1983. This may mean some reserves will be developing these unique cultural, educational, recreational, and preventive programs in the next few years.

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(K) Family Court System and Children's Aid Society

[illegible] were described frequently as

insensitive to the realities of Indian life. There is an assumption that because a parent drinks a lot that they are incapable as parents. Most frequently, there is no advocate for the Native person or interpreter of Native life that can help the judge or agency make an appropriate response.

(L) Suggested Future Research Topics

Are the following proposed topics and questions sufficient to meet our long-term needs? Are there additional research areas that should be covered?

1. Paralegal Native Investigators - especially trained for child and family welfare issues.
2. Lay panels to advise judges.
3. Policy and guidelines re: family clinics. There will be more emphasis put on the predisposition assessment of juveniles. What criteria and standards will they use in making their assessments? Will they be culturally sensitive?
4. Tribal Court Systems.
5. The use of culturally appropriate treatment therapies for the Native problem child.
6. Statistics!
7. Matrimonial, Custody and Property Dispute on Indian lands.
8. The Child Welfare System and Native People - Canadian Council on Social Development - A two-year study with the following objectives:

a) To identify and describe the weaknesses in existing federal and provincial legislation, policies or programs which result in the provision of child welfare services to Native families which are inadequate or inappropriate.

b) To detail some of the policy and program options which are being advocated by Native organizations in different parts of the country.

c) To facilitate a resolution of the problems by providing information, advice and assistance to representatives of Native organizations, child welfare officials and provincial policy-makers who are attempting to develop feasible alternatives.

It is being prepared by Patrick Johnston.

9. Training Needs.

CONCLUDING QUESTIONS

1. *Is there a need for an overarching organization to begin filling the gaps in the field of child welfare and justice? If not, who is going to do it? (See Appendix "C" - "Alberta Model")*

2. *Do the Native organizations and Native people of Ontario have the time, energy, finances, and, more important, the commitment to build a new organization?*

V IMMEDIATE ALTERNATIVES FOR COUNCIL

1. The Council could set up a Working Committee to examine discussion paper in more depth and report back to Council at next meeting.

2. The Council, in conjunction with ONWA, could organize the response of Native organizations to the proposed Omnibus Bill. This process may include conference and steering committee mechanism.

3. The Council could set some priorities now and through a

APPENDIX "A"

A BY-LAW FOR THE CARE OF OUR INDIAN CHILDREN:
SPALLUMCHEEN INDIAN BAND BY-LAW #3 - 1980

1. RECOGNIZING the special relationship which exists among band members to care for each other and to govern themselves in accordance with the five basic principles of Indian government:

(i) WE ARE THE ORIGINAL PEOPLE OF THIS LAND AND HAVE THE ABSOLUTE RIGHTS TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS (BAND COUNCILS).

(ii) OUR ABORIGINAL RIGHT TO SELF-DETERMINATION THROUGH OUR OWN UNIQUE FORMS OF INDIAN GOVERNMENTS ARE TO BE CONFIRMED, STRENGTHENED AND EXPANDED OR INCREASED, THROUGH SECTION 91(24) OF THE BRITISH NORTH AMERICA ACT.

(iii) OUR INDIAN RESERVE LANDS ARE TO BE EXPANDED TO A SIZE LARGE ENOUGH TO PROVIDE FOR THE ESSENTIAL NEEDS OF ALL OUR PEOPLE.

(iv) ADEQUATE AMOUNTS OF LAND, WATER, FORESTRY, MINERALS, OILS, GAS, WILDLIFE, FISH, AND FINANCIAL RESOURCES ARE TO BE MADE AVAILABLE TO OUR INDIAN GOVERNMENTS ON A CONTINUING BASIS AND IN SUFFICIENT QUANTITIES TO ENSURE DOMESTIC, SOCI-ECONOMIC SELF-DETERMINATION FOR PEACE, ORDER AND GOOD GOVERNMENT OF INDIAN PEOPLE.

(v) OUR INDIAN GOVERNMENTS (BAND COUNCIL) OR LEGISLATURES ARE TO HAVE THE AUTHORITY TO GOVERN THROUGH MAKING LAWS IN RELATION TO MATTERS COMING WITHIN SPECIFIED AREAS OF JURISDICTION THAT HAVE BEEN DEFINED BY OUR PEOPLE.

AND RECOGNIZING OUR AUTHORITY TO CARE FOR OUR CHILDREN WITHIN THE TERMS OF THE INDIAN ACT R.S.O 149 [R.S.C. 1970, c.I-6] S.81 AND IN PARTICULAR S.P.1 [s.81?] (a) (c) (d) AND ANCILLARY POWERS IN S.81(g) [(q)?]

The Spallumcheen Indian Band finds:

(a) that there is no resource that is more vital to the continued existence and integrity of the Indian Band than our children.

(b) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by non-band agencies.

(c) that the removal of our children by non-band agencies and the treatment of the children while under the authority of non-band agencies has too often hurt our children emotionally and serves to fracture the strength of our community, thereby contributing to social breakdown and disorder within our reserve.

2. In this by-law, unless the context otherwise requires:

"Indian Band" means the band members of the Spallumcheen Indian Band, as defined under the Indian Act and by band custom.

"Indian" means a person recognized as an Indian by the Band Council.

"Indian Child" means a band member of the Spallumcheen Indian Band, as defined under the Indian Act under the age of 21 years, and unmarried.

"Extended Family Member" shall be defined by the law and custom of the Spallumcheen Indian Band and shall be a person who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or a sister-in-law, niece or nephew, first or second cousin or step-parent.

"Family" means the unit within which the Indian child is a permanent member and usually resides.

"Indian Custodian" means any person who has legal custody of an Indian child under custom or under this by-law or whose temporary physical care, custody and control has been transferred by the parent of such child.

"Parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom.

"Band Council" means the Chief and Councillors of the Spallumcheen Indian Band, either elected by custom or under the Indian Act.

"Reservation" means the reservation of lands reserved by Her Majesty the Queen for the use and benefit of the Spallumcheen Indian Band as defined under the Indian Act.

"General Band Meeting" means a meeting of the band membership, as defined by the provision of the Indian Act and by band custom and law.

"Child Custody Proceeding" shall mean and include:

(a) any action relocating an Indian child from the home of his/her parents, extended family member or Indian custodian for placement in another home.

(b) and the maintenance of the Indian child in the home of the Indian custodian.

(c) and the return of the Indian child to the home of the Indian child's family.

3. (a) The Spallumcheen Indian Band shall have exclusive jurisdiction over any child custody proceeding involving an Indian child, notwithstanding the residence of the child.

4. (a) The Band Council shall see that the Provisions of this by-law are carried out and may exercise such powers as are necessary to carry out this by-law including;-

(b) The Appointment of such persons to act on behalf of the Band Council in the performance of any of the duties under this by-law as the occasion may require, and

(c) The making of such regulations as, from time to time may be be necessary to carry out the provisions of this by-law, including but not limiting, regulations:

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(i) governing the creation of special programs designed to aid in any child custody proceeding and in fulfilling

(ii) governing the expenditure of band money designed to aid in any child custody proceeding and fulfilling the purposes of this by-law.

(iii) governing the conduct of Indian children, Indian guardians, parents, or extended family members, or any person acting on behalf of any band member in a child custody proceeding which may be necessary for the proper working of this by-law.

5. The Chief and Council shall be the legal guardian of the Indian child, who is taken into the care of the Indian Band.

6. The Chief and Council and every person authorized by the Chief and Council may remove an Indian child from the home where the child is living and bring the child into the care of the Indian Band, when the Indian child is in need of protection.

7. An Indian child is in need of protection when:

(a) a parent, extended family member or Indian guardian asks the Indian Band to take care of the child.

(b) The child is in a condition of abuse or neglect endangering the child's health or well-being, or

(c) the child is abandoned, or

(d) the child is deprived of necessary care because of death, imprisonment or disability of the parents.

8. A person who removes an Indian child from his/her home may place the child in a temporary home, to be chosen at the discretion of the person removing the Indian child.

9. A person who removes an Indian child from his/her home shall within seven days bring the child before Chief and Council.

10. Before deciding where the Indian child should be placed, Chief and Council should consider and be guided by Indian customs and the following preferences:

(i) The wishes of the Indian child, whenever, in the opinion of Band Council, the child is old enough to appreciate his/her situation.

(ii) Wherever possible, help should be given to rebuild the family, of the Indian child.

(iii) In the absence of placement with the family, a preference for placement shall be given in this order to:

1) a parent

2) a member of the extended family living on the reserve.

3) a member of the extended family living on another reserve, although not a reserve to the Indian Band.

4) a member of the extended family living off the reserve.

5) an Indian living on a reserve.

6) an Indian living off a reserve.

7) only as a last resort shall the child be placed in the home of a non-Indian living off the reserve.

(iv) In all cases, the best interests of the child should be the deciding consideration.

11. The Chief and Council shall place the child in a suitable home.

12. Any band member of [or] any parent or member of the Indian child's extended family or Indian guardian may review the decision made by the Band Council to remove the Indian child from his/her home or to the placement of the child by the Band Council.

13. The person seeking a review shall notify in writing the Band Council at least 14 days before the next band meeting.

14. Upon receiving the written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.

15. The Indian Band, by majority vote of the band members attending at the General Band meeting shall decide on the placement of the Indian child. The decision of the Indian Band shall be governed by the considerations stated in s.10 of this by-law.

16. The Chief and Council shall ensure that the child's family be advised of important changes and events in the life of the child while the child is in the care of the band.

Wherever possible the responsibility for such communications shall be delegated to the Indian guardian.

17. The Chief and Council shall ensure that an assistance programme be established from time to time, which may be necessary to facilitate the stable placement of an Indian child.

18. The Indian child, the parent, member of extended family of [or] Indian guardian may, at any time seek a decision from Band Council concerning the return of the Indian Child to his/her family, or the removal of the Indian child to the home of another Indian guardian.

19. Upon receiving written notice of an application to return or remove the Indian child, the Band Council shall consider the placement, guided by the consideration under s.10 of this by-law to return the Indian child to his/her family or maintain the Indian child with the Indian guardian or place the Indian child in another home.

20. Any Band member, parent, member of the child's extended family of [or] Indian guardian may review Band Council's decision under s.19 of the by-law.

21. The person reviewing shall notify Band Council in writing at least 14 days before the next General Band Meeting.

22. Upon receiving written notice to review, Band Council shall put the question before the Indian Band at the next General Band Meeting.

23. The Indian Band by majority vote of the Band Members attending the General Band meeting, shall decide on the placement of the Indian child. The decision of the Band shall be made and governed by the considerations under s.10 of this by-law.

This by-law was passed by an unanimous vote of Band Members at a General Meeting held June 3, 1980 held at the Timbercreek Council Hall; and an unanimous vote of Band Council, taken at that General Band Meeting.

APPENDIX "B"

INDIAN CHILD WELFARE ACT OF 1978

For Legislative History of Act, see p. 3530

An Act to establish standards for the placement of Indian children in foster or adoptive homes, to prevent the breakup of Indian families, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Indian Child Welfare Act of 1978". Indian Child Welfare Act of 1978.

SEC. 2. Recognizing the special relationship between the United States and the Indian tribes and their members and the Federal responsibility to Indian people, the Congress finds— 25 USC 1901 note.

(1) that clause 3, section 8, article I of the United States Constitution provides that "The Congress shall have Power * * * To regulate Commerce * * * with Indian tribes" and, through this and other constitutional authority, Congress has plenary power over Indian affairs; 25 USC 1901.

(2) that Congress, through statutes, treaties, and the general course of dealing with Indian tribes, has assumed the responsibility for the protection and preservation of Indian tribes and their resources; Congress, responsibility for protection of Indians.

(3) that there is no resource that is more vital to the continued existence and integrity of Indian tribes than their children and that the United States has a direct interest, as trustee, in protecting Indian children who are members of or are eligible for membership in an Indian tribe;

(4) that an alarmingly high percentage of Indian families are broken up by the removal, often unwarranted, of their children from them by nontribal public and private agencies and that an alarmingly high percentage of such children are placed in non-Indian foster and adoptive homes and institutions; and

(5) that the States, exercising their recognized jurisdiction over Indian child custody proceedings through administrative and judicial bodies, have often failed to recognize the essential tribal relations of Indian people and the cultural and social standards prevailing in Indian communities and families.

SEC. 3. The Congress hereby declares that it is the policy of this Nation to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children from their families and the placement of such children in foster or adoptive homes which will reflect the unique values of Indian culture, and by providing for assistance to Indian tribes in the operation of child and family service programs. 25 USC 1902.

SEC. 4. For the purposes of this Act, except as may be specifically provided otherwise, the term— Definitions. 25 USC 1903.

(1) "child custody proceeding" shall mean and include—

(i) "foster care placement" which shall mean any action removing an Indian child from its parent or Indian custodian for temporary placement in a foster home or institution or the home of a guardian or conservator where the parent or Indian custodian cannot have the child returned upon demand, but where parental rights have not been terminated;

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(ii) "termination of parental rights" which shall mean any action resulting in the termination of the parent-child relationship;

(iii) "preadoptive placement" which shall mean the temporary placement of an Indian child in a foster home or institution after the termination of parental rights, but prior to or in lieu of adoptive placement; and

(iv) "adoptive placement" which shall mean the permanent placement of an Indian child for adoption, including any action resulting in a final decree of adoption.

Such term or terms shall not include a placement based upon an act which, if committed by an adult, would be deemed a crime or upon an award, in a divorce proceeding, of custody to one of the parents.

(2) "extended family member" shall be as defined by the law or custom of the Indian child's tribe or, in the absence of such law or custom, shall be a person who has reached the age of eighteen and who is the Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent;

(3) "Indian" means any person who is a member of an Indian tribe, or who is an Alaska Native and a member of a Regional Corporation as defined in section 7 of the Alaska Native Claims Settlement Act (85 Stat. 688, 689);

43 USC 1606.

(4) "Indian child" means any unmarried person who is under age eighteen and is either (a) a member of an Indian tribe or (b) is eligible for membership in an Indian tribe and is the biological child of a member of an Indian tribe;

(5) "Indian child's tribe" means (a) the Indian tribe in which an Indian child is a member or eligible for membership or (b), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts;

(6) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under State law or to whom temporary physical care, custody, and control has been transferred by the parent of such child;

(7) "Indian organization" means any group, association, partnership, corporation, or other legal entity owned or controlled by Indians, or a majority of whose members are Indians;

(8) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in section 3(c) of the Alaska Native Claims Settlement Act (85 Stat. 688, 689), as amended;

43 USC 1602.

(9) "parent" means any biological parent or parents of an Indian child or any Indian person who has lawfully adopted an Indian child, including adoptions under tribal law or custom. It does not include the unwed father where paternity has not been acknowledged or established;

(10) "reservation" means Indian country as defined in section 1151 of title 18, United States Code and any lands, not covered under such section, title to which is either held by the United States in trust for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to a restriction by the United States against alienation;

(11) "Secretary" means the Secretary of the Interior; and
(12) "tribal court" means a court with jurisdiction over child custody proceedings and which is either a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe which is vested with authority over child custody proceedings.

TITLE I—CHILD CUSTODY PROCEEDINGS

Indian tribes, exclusive jurisdiction over Indian child custody proceedings. 25 USC 1911.

SEC. 101. (a) An Indian tribe shall have jurisdiction exclusive as to any State over any child custody proceeding involving an Indian child who resides or is domiciled within the reservation of such tribe, except where such jurisdiction is otherwise vested in the State by existing Federal law. Where an Indian child is a ward of a tribal court, the Indian tribe shall retain exclusive jurisdiction, notwithstanding the residence or domicile of the child.

(b) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child not domiciled or residing within the reservation of the Indian child's tribe, the court, in the absence of good cause to the contrary, shall transfer such proceeding to the jurisdiction of the tribe, absent objection by either parent, upon the petition of either parent or the Indian custodian or the Indian child's tribe: *Provided*, That such transfer shall be subject to declination by the tribal court of such tribe.

(c) In any State court proceeding for the foster care placement of, or termination of parental rights to, an Indian child, the Indian custodian of the child and the Indian child's tribe shall have a right to intervene at any point in the proceeding.

(d) The United States, every State, every territory or possession of the United States, and every Indian tribe shall give full faith and credit to the public acts, records, and judicial proceedings of any Indian tribe applicable to Indian child custody proceedings to the same extent that such entities give full faith and credit to the public acts, records, and judicial proceedings of any other entity.

Foster care placement, court proceedings. 25 USC 1912.

SEC. 102. (a) In any involuntary proceeding in a State court, where the court knows or has reason to know that an Indian child is involved, the party seeking the foster care placement of, or termination of parental rights to, an Indian child shall notify the parent or Indian custodian and the Indian child's tribe, by registered mail with return receipt requested, of the pending proceedings and of their right of intervention. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, such notice shall be given to the Secretary in like manner, who shall have fifteen days after receipt to provide the requisite notice to the parent or Indian custodian and the tribe. No foster care placement or termination of parental rights proceeding shall be held until at least ten days after receipt of notice by the parent or Indian custodian and the tribe or the Secretary: *Provided*, That the parent or Indian custodian or the tribe shall, upon request, be granted up to twenty additional days to prepare for such proceeding.

(b) In any case in which the court determines indigency, the parent or Indian custodian shall have the right to court-appointed counsel in any removal, placement, or termination proceeding. The court may, in its discretion, appoint counsel for the child upon a finding that such appointment is in the best interest of the child. Where State law makes no provision for appointment of counsel in such proceedings, the court

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shall promptly notify the Secretary upon appointment of counsel, and the Secretary, upon certification of the presiding judge, shall pay reasonable fees and expenses out of funds which may be appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13).

(c) Each party to a foster care placement or termination of parental rights proceeding under State law involving an Indian child shall have the right to examine all reports or other documents filed with the court upon which any decision with respect to such action may be based.

(d) Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(e) No foster care placement may be ordered in such proceeding in the absence of a determination, supported by clear and convincing evidence, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

(f) No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

Parental rights, voluntary termination.
25 USC 1913.

SEC. 103. (a) Where any parent or Indian custodian voluntarily consents to a foster care placement or to termination of parental rights, such consent shall not be valid unless executed in writing and recorded before a judge of a court of competent jurisdiction and accompanied by the presiding judge's certificate that the terms and consequences of the consent were fully explained in detail and were fully understood by the parent or Indian custodian. The court shall also certify that either the parent or Indian custodian fully understood the explanation in English or that it was interpreted into a language that the parent or Indian custodian understood. Any consent given prior to, or within ten days after, birth of the Indian child shall not be valid.

(b) Any parent or Indian custodian may withdraw consent to a foster care placement under State law at any time and, upon such withdrawal, the child shall be returned to the parent or Indian custodian.

(c) In any voluntary proceeding for termination of parental rights to, or adoptive placement of, an Indian child, the consent of the parent may be withdrawn for any reason at any time prior to the entry of a final decree of termination or adoption, as the case may be, and the child shall be returned to the parent.

(d) After the entry of a final decree of adoption of an Indian child in any State court, the parent may withdraw consent thereto upon the grounds that consent was obtained through fraud or duress and may petition the court to vacate such decree. Upon a finding that such consent was obtained through fraud or duress, the court shall vacate such decree and return the child to the parent. No adoption which has been effective for at least two years may be invalidated under the provisions of this subsection unless otherwise permitted under State law.

25 USC 1914.

SEC. 104. Any Indian child who is the subject of any action for foster care placement or termination of parental rights under State law, any parent or Indian custodian from whose custody such child was removed, and the Indian child's tribe may petition any court of com-

patent jurisdiction to invalidate such action upon a showing that such action violated any provision of sections 101, 102, and 103 of this Act.

Adoptive placement of Indian children. 25 USC 1915.

SEC. 105. (a) In any adoptive placement of an Indian child under State law, a preference shall be given, in the absence of good cause to the contrary, to a placement with (1) a member of the child's extended family; (2) other members of the Indian child's tribe; or (3) other Indian families.

(b) Any child accepted for foster care or preadoptive placement shall be placed in the least restrictive setting which most approximates a family and in which his special needs, if any, may be met. The child shall also be placed within reasonable proximity to his or her home, taking into account any special needs of the child. In any foster care or preadoptive placement, a preference shall be given, in the absence of good cause to the contrary, to a placement with—

(i) a member of the Indian child's extended family;

(ii) a foster home licensed, approved, or specified by the Indian child's tribe;

(iii) an Indian foster home licensed or approved by an authorized non-Indian licensing authority; or

(iv) an institution for children approved by an Indian tribe or operated by an Indian organization which has a program suitable to meet the Indian child's needs.

(c) In the case of a placement under subsection (a) or (b) of this section, if the Indian child's tribe shall establish a different order of preference by resolution, the agency or court effecting the placement shall follow such order so long as the placement is the least restrictive setting appropriate to the particular needs of the child, as provided in subsection (b) of this section. Where appropriate, the preference of the Indian child or parent shall be considered: *Provided*, That where a consenting parent evidences a desire for anonymity, the court or agency shall give weight to such desire in applying the preferences.

(d) The standards to be applied in meeting the preference requirements of this section shall be the prevailing social and cultural standards of the Indian community in which the parent or extended family resides or with which the parent or extended family members maintain social and cultural ties.

(e) A record of each such placement, under State law, of an Indian child shall be maintained by the State in which the placement was made, evidencing the efforts to comply with the order of preference specified in this section. Such record shall be made available at any time upon the request of the Secretary or the Indian child's tribe.

Petition, return of custody. 25 USC 1916.

SEC. 106. (a) Notwithstanding State law to the contrary, whenever a final decree of adoption of an Indian child has been vacated or set aside or the adoptive parents voluntarily consent to the termination of their parental rights to the child, a biological parent or prior Indian custodian may petition for return of custody and the court shall grant such petition unless there is a showing, in a proceeding subject to the provisions of section 102 of this Act, that such return of custody is not in the best interests of the child.

Removal from foster care home.

(b) Whenever an Indian child is removed from a foster care home or institution for the purpose of further foster care, preadoptive, or adoptive placement, such placement shall be in accordance with the provisions of this Act, except in the case where an Indian child is being returned to the parent or Indian custodian from whose custody the child was originally removed.

25 USC 1917.

SEC. 107. Upon application by an Indian individual who has reached the age of eighteen and who was the subject of an adoptive placement,

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the court which entered the final decree shall inform such individual of the tribal affiliation, if any, of the individual's biological parents and provide such other information as may be necessary to protect any rights flowing from the individual's tribal relationship.

Reassumption, jurisdiction over child custody proceedings.
25 USC 1918.
18 USC prec. 1151 note.
25 USC 1321.
28 USC 1360 note.

SEC. 108. (a) Any Indian tribe which became subject to State jurisdiction pursuant to the provisions of the Act of August 15, 1953 (67 Stat. 588), as amended by title IV of the Act of April 11, 1968 (82 Stat. 73, 78), or pursuant to any other Federal law, may reassume jurisdiction over child custody proceedings. Before any Indian tribe may reassume jurisdiction over Indian child custody proceedings, such tribe shall present to the Secretary for approval a petition to reassume such jurisdiction which includes a suitable plan to exercise such jurisdiction.

(b)(1) In considering the petition and feasibility of the plan of a tribe under subsection (a), the Secretary may consider, among other things:

(i) whether or not the tribe maintains a membership roll or alternative provision for clearly identifying the persons who will be affected by the reassumption of jurisdiction by the tribe;

(ii) the size of the reservation or former reservation area which will be affected by retrocession and reassumption of jurisdiction by the tribe;

(iii) the population base of the tribe, or distribution of the population in homogeneous communities or geographic areas; and

(iv) the feasibility of the plan in cases of multitribal occupation of a single reservation or geographic area.

(2) In those cases where the Secretary determines that the jurisdictional provisions of section 101(a) of this Act are not feasible, he is authorized to accept partial retrocession which will enable tribes to exercise referral jurisdiction as provided in section 101(b) of this Act, or, where appropriate, will allow them to exercise exclusive jurisdiction as provided in section 101(a) over limited community or geographic areas without regard for the reservation status of the area affected.

(c) If the Secretary approves any petition under subsection (a), the Secretary shall publish notice of such approval in the Federal Register and shall notify the affected State or States of such approval. The Indian tribe concerned shall reassume jurisdiction sixty days after publication in the Federal Register of notice of approval. If the Secretary disapproves any petition under subsection (a), the Secretary shall provide such technical assistance as may be necessary to enable the tribe to correct any deficiency which the Secretary identified as a cause for disapproval.

(d) Assumption of jurisdiction under this section shall not affect any action or proceeding over which a court has already assumed jurisdiction, except as may be provided pursuant to any agreement under section 109 of this Act.

States and Indian tribes, agreements.
25 USC 1919.

SEC. 109. (a) States and Indian tribes are authorized to enter into agreements with each other respecting care and custody of Indian children and jurisdiction over child custody proceedings, including agreements which may provide for orderly transfer of jurisdiction on a case-by-case basis and agreements which provide for concurrent jurisdiction between States and Indian tribes.

(b) Such agreements may be revoked by either party upon one hundred and eighty days' written notice to the other party. Such

revocation shall not affect any action or proceeding over which a court has already assumed jurisdiction, unless the agreement provides otherwise.

Improper removal of child from custody. 25 USC 1920.

SEC. 110. Where any petitioner in an Indian child custody proceeding before a State court has improperly removed the child from custody of the parent or Indian custodian or has improperly retained custody after a visit or other temporary relinquishment of custody, the court shall decline jurisdiction over such petition and shall forthwith return the child to his parent or Indian custodian unless returning the child to his parent or custodian would subject the child to a substantial and immediate danger or threat of such danger.

25 USC 1921.

SEC. 111. In any case where State or Federal law applicable to a child custody proceeding under State or Federal law provides a higher standard of protection to the rights of the parent or Indian custodian of an Indian child than the rights provided under this title, the State or Federal court shall apply the State or Federal standard.

Emergency removal of child. 25 USC 1922.

SEC. 112. Nothing in this title shall be construed to prevent the emergency removal of an Indian child who is a resident of or is domiciled on a reservation, but temporarily located off the reservation, from his parent or Indian custodian or the emergency placement of such child in a foster home or institution, under applicable State law, in order to prevent imminent physical damage or harm to the child. The State authority, official, or agency involved shall insure that the emergency removal or placement terminates immediately when such removal or placement is no longer necessary to prevent imminent physical damage or harm to the child and shall expeditiously initiate a child custody proceeding subject to the provisions of this title, transfer the child to the jurisdiction of the appropriate Indian tribe, or restore the child to the parent or Indian custodian, as may be appropriate.

Effective date. 25 USC 1923.

SEC. 113. None of the provisions of this title, except sections 101(a), 108, and 109, shall affect a proceeding under State law for foster care placement, termination of parental rights, preadoptive placement, or adoptive placement which was initiated or completed prior to one hundred and eighty days after the enactment of this Act, but shall apply to any subsequent proceeding in the same matter or subsequent proceedings affecting the custody or placement of the same child.

TITLE II—INDIAN CHILD AND FAMILY PROGRAMS

25 USC 1931.

SEC. 201. (a) The Secretary is authorized to make grants to Indian tribes and organizations in the establishment and operation of Indian child and family service programs on or near reservations and in the preparation and implementation of child welfare codes. The objective of every Indian child and family service program shall be to prevent the breakup of Indian families and, in particular, to insure that the permanent removal of an Indian child from the custody of his parent or Indian custodian shall be a last resort. Such child and family service programs may include, but are not limited to—

(1) a system for licensing or otherwise regulating Indian foster and adoptive homes;

(2) the operation and maintenance of facilities for the counseling and treatment of Indian families and for the temporary custody of Indian children;

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(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care;

(4) home improvement programs;

(5) the employment of professional and other trained personnel to assist the tribal court in the disposition of domestic relations and child welfare matters;

(6) education and training of Indians, including tribal court judges and staff, in skills relating to child and family assistance and service programs;

(7) a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as foster children, taking into account the appropriate State standards of support for maintenance and medical needs; and

(8) guidance, legal representation, and advice to Indian families involved in tribal, State, or Federal child custody proceedings.

(b) Funds appropriated for use by the Secretary in accordance with this section may be utilized as non-Federal matching share in connection with funds provided under titles IV–B and XX of the Social Security Act or under any other Federal financial assistance programs which contribute to the purpose for which such funds are authorized to be appropriated for use under this Act. The provision or possibility of assistance under this Act shall not be a basis for the denial or reduction of any assistance otherwise authorized under titles IV–B and XX of the Social Security Act or any other federally assisted program. For purposes of qualifying for assistance under a federally assisted program, licensing or approval of foster or adoptive homes or institutions by an Indian tribe shall be deemed equivalent to licensing or approval by a State.

42 USC 620, 1397.

Additional services.
25 USC 1932.

SEC. 202. The Secretary is also authorized to make grants to Indian organizations to establish and operate off-reservation Indian child and family service programs which may include, but are not limited to—

(1) a system for regulating, maintaining, and supporting Indian foster and adoptive homes, including a subsidy program under which Indian adoptive children may be provided support comparable to that for which they would be eligible as Indian foster children, taking into account the appropriate State standards of support for maintenance and medical needs;

(2) the operation and maintenance of facilities and services for counseling and treatment of Indian families and Indian foster and adoptive children;

(3) family assistance, including homemaker and home counselors, day care, afterschool care, and employment, recreational activities, and respite care; and

(4) guidance, legal representation, and advice to Indian families involved in child custody proceedings.

Funds.
25 USC 1933.

SEC. 203. (a) In the establishment, operation, and funding of Indian child and family service programs, both on and off reservation, the Secretary may enter into agreements with the Secretary of Health, Education, and Welfare, and the latter Secretary is hereby authorized for such purposes to use funds appropriated for similar programs of the Department of Health, Education, and Welfare: *Provided*, That authority to make payments pursuant to such agreements shall be effective only to the extent and in such amounts as may be provided in advance by appropriation Acts.

(b) Funds for the purposes of this Act may be appropriated pursuant to the provisions of the Act of November 2, 1921 (42 Stat. 208), as amended. 25 USC 13.

SEC. 204. For the purposes of sections 202 and 203 of this title, the term "Indian" shall include persons defined in section 4(c) of the Indian Health Care Improvement Act of 1976 (90 Stat. 1400, 1401). 25 USC 1934. 25 USC 1603.

TITLE III—RECORDKEEPING, INFORMATION AVAILABILITY, AND TIMETABLES

SEC. 301. (a) Any State court entering a final decree or order in any Indian child adoptive placement after the date of enactment of this Act shall provide the Secretary with a copy of such decree or order together with such other information as may be necessary to show— Final decree, information to be included. 25 USC 1951.

(1) the name and tribal affiliation of the child;
(2) the names and addresses of the biological parents;
(3) the names and addresses of the adoptive parents; and
(4) the identity of any agency having files or information relating to such adoptive placement.

Where the court records contain an affidavit of the biological parent or parents that their identity remain confidential, the court shall include such affidavit with the other information. The Secretary shall insure that the confidentiality of such information is maintained and such information shall not be subject to the Freedom of Information Act (5 U.S.C. 552), as amended.

(b) Upon the request of the adopted Indian child over the age of eighteen, the adoptive or foster parents of an Indian child, or an Indian tribe, the Secretary shall disclose such information as may be necessary for the enrollment of an Indian child in the tribe in which the child may be eligible for enrollment or for determining any rights or benefits associated with that membership. Where the documents relating to such child contain an affidavit from the biological parent or parents requesting anonymity, the Secretary shall certify to the Indian child's tribe, where the information warrants, that the child's parentage and other circumstances of birth entitle the child to enrollment under the criteria established by such tribe.

SEC. 302. Within one hundred and eighty days after the enactment of this Act, the Secretary shall promulgate such rules and regulations as may be necessary to carry out the provisions of this Act. Effective date. Rules and regulations. 25 USC 1952.

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TITLE IV—MISCELLANEOUS

Day schools.
25 USC 1961.

SEC. 401. (a) It is the sense of Congress that the absence of locally convenient day schools may contribute to the breakup of Indian families.

Report to congressional committees.

(b) The Secretary is authorized and directed to prepare, in consultation with appropriate agencies in the Department of Health, Education, and Welfare, a report on the feasibility of providing Indian children with schools located near their homes, and to submit such report to the Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives within two years from the date of this Act. In developing this report the Secretary shall give particular consideration to the provision of educational facilities for children in the elementary grades.

Copies to each State.
25 USC 1962.

SEC. 402. Within sixty days after enactment of this Act, the Secretary shall send to the Governor, chief justice of the highest court of appeal, and the attorney general of each State a copy of this Act, together with committee reports and an explanation of the provisions of this Act.

25 USC 1963.

SEC. 403. If any provision of this Act or the applicability thereof is held invalid, the remaining provisions of this Act shall not be affected thereby.

Approved November 8, 1978.

NATIVE COUNSELLING SERVICES OF ALBERTA

COMMONWEALTH BUILDING
9912 - 106 STREET
EDMONTON, ALBERTA T5K 1C5
PHONE (403) 423-2141

DEC. 79

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WHAT IS NATIVE COUNSELLING SERVICES OF ALBERTA?

Native Counselling Services of Alberta is an organization consisting mainly of people of Native ancestry. The primary function of N.C.S.A. is to assist Native people in conflict with the law prior to, during and following their appearance in court.

Native Counselling Services of Alberta is registered under the Societies Act of Alberta. It is non-political, non-sectarian, and it is not directly affiliated with other political and non-political Native organizations. N.C.S.A., however, supports and encourages the development of other Native organizations. N.C.S.A. is a non-profit organization.

THERE IS NO CHARGE FOR SERVICES.

HOW IS N.C.S.A. GOVERNED?

Unlike other Native organizations, N.C.S.A. does not have elected board members. The N.C.S.A. board is selected from the general Native public throughout the province upon the recommendations of the Indian and Metis Associations of Alberta.

The seven member board consists of a President, Vice-President, Secretary-Treasurer and four other members. The board is comprised of Status and Non-Status Indian and Metis people. There is no set term of office for the N.C.S.A. board, although the executive is elected for a one year term.

The main responsibility of the N.C.S.A. Board is to set operation procedures, policies and guidelines for the Society, such as terms and conditions of employment. It evaluates the effectiveness of existing programs, sanctions new programs and ensures N.C.S.A. is administered in an effective and efficient manner.

WHERE IS N.C.S.A. LOCATED?

The head office of Native Counselling Services of Alberta is in Edmonton, Alberta at 9912 - 106 Street. Courtworkers are located throughout the province on or near Indian Reserves, Metis colonies, and in areas where there is a large Native population. Branch offices are located in Brocket, Calgary, Fort Macleod, Fort McMurray, Gleichen, Grand Centre, Grande Prairie, High Level, High Prairie, Hinton, Hobbema, Lac La Biche, Lethbridge, Morley, Peace River, Rocky Mountain House, Slave Lake, St. Paul, Standoff, Taber, Valleyview, Wabasca and Whitecourt. Courtworkers from each of these offices also attend court in all of the smaller surrounding communities that have a significant Native population.

WHO MAY SEEK ASSISTANCE FROM N.C.S.A.?

N.C.S.A. is organized primarily to assist Native people (Treaty, Non-Treaty, and Metis) who may be having legal or personal difficulties. However, N.C.S.A. also offers services to anyone else in need who may seek assistance and advice from N.C.S.A.

WHEN SHOULD A PERSON SEEK ASSISTANCE FROM N.C.S.A.?

The best time for a person to seek assistance from N.C.S.A. is immediately after they have been arrested or summoned to appear in court; or if they feel they have a question about their legal rights or if they want to lay charges or start legal proceedings against an individual or company.

WHAT SERVICES DOES N.C.S.A. OFFER?

At the present time, N.C.S.A. operates 13 different programs. Providing a wide variety of services, they include:

CRIMINAL COURTWORKERS:

APPENDIX "C"

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A A D A C)

im was first presented on the Blood Indian Reserve
al Community Services. N.C.S.A. assumed respons-
rogram in February 1974.

is composed of four lectures and covers a variety of
ciated with safe driving and alcohol abuse. It utilizes
l a number of guest lecturers, (e.g. RCMP Officers,
Public Health Nurses, A.A.D.A.C. Counsellors,
well as films and slide shows. The general aim of the
reduce the incidence of impaired driving by making
ware of the hazards involved and their responsibility
em.

HEN FINE OPTIONS PROGRAM:

Options Program in Gleichen has been in operation
mer of 1977. It is a joint venture of N.C.S.A. and the
ttor General's Department.

ram may be instituted in one or two phases, the pre-
phase (in lieu of incarceration due to an inability to
e), or the institutional phase, (after incarceration for
yment of a fine). In the latter phase, the program
t while the client is on Temporary Absence from

taking part in the program do community work at the
'hour until they have worked off the equivalent of their
rogram provides an alternative to imprisonment and
the cost of the administration of Justice.

SUICIDE PREVENTION PROGRAM:

cide Prevention Program was initiated in February,
onse to the growing concern over the incidence of
uicide in the Hobbema area.

s to the program are made by the RCMP, by Mental
rices, and also by the clients themselves (over the
The type of counselling offered is variable, but is
task-centered and supportive nature. Both individuals
s are seen, and the counsellor makes a special effort
ts in their homes rather than in her office. Clients are
n on a weekly basis with the average length of contact
months. Referrals have been made to other agencies
tions in the area, (e.g. the Hobbema Detox Centre and
spital-Ponoka), and follow-up by the counsellor is
here appropriate.

S N.C.S.A. STARTED?

tive Counselling Services of Alberta developed from
ork program offered by the Canadian Native Friendship
Edmonton.

tial Courtwork program in Western Canada originated at
peg Friendship Centre in the early 1960's.

anadian Native Friendship Centre in Edmonton officially
1963 in an attempt to meet the social, recreational and
eeds of people in the city, whether they were permanent
newcomers or transients.

onstant problem encountered by the Centre was Native
ppearing in Criminal Court. Distinct communication
were evident in most cases: (a) frequently a language
rated, (b) unfamiliarity with court procedures, (c) inability
nes, (d) reluctance to speak up for oneself, (e) a lack of
ge of agencies to turn to for assistance and guidance,
sion about the law, and (g) confusion about Native rights.

e Centre became established, it expanded its scope of

various needs of native people. As a result of this expansion, the Centre made provision for certain staff members to familiarize themselves with the problems faced by Natives in court as well as the operations of the Criminal Justice System.

By 1964, a Courtworker was spending much of his time at the Municipal (now Provincial) Court Building, trying to ensure that the Native accused was fully aware of the charges, possible sentence and Court procedures such as making an election and plea and paying of fines. Other responsibilities accepted by the Courtworker included acting as interpreter, helping Natives accused contact legal counsel, and referring people with special difficulties to the appropriate service agencies.

By 1969, Native people throughout Alberta recognized and accepted the idea and operation of the Edmonton Courtworker. His help was solicited from outside the city, however he could not respond adequately due to his ties with the Friendship Centre.

In response to these requests, the Edmonton Courtworker left the Friendship Centre and formed the Native Courtworkers Services of Alberta in 1970. Three other Courtworkers were hired for the northern part of the province. Administratively, the Courtwork program became part of the Metis Association of Alberta.

Political and jurisdictional difficulties resulting from their formal ties with the Metis Association forced the Courtworkers to consider alternate forms of administering the program. With the support of the Metis and Indian Associations of Alberta, a provision Board of Directors was established in 1970 to administer the Courtworkers program. The provisional board became a permanent one in 1971 and the same structure still exists at the present time.

In 1971, the Courtworkers Services expanded to include the Southern Alberta region. Also in 1971, the Native Courtworkers Services changed its name to the Native Counselling Services of Alberta.

N.C.S.A. has grown a great deal since 1971. Where in 1971 the focus of N.C.S.A. was mainly on criminal courtwork, it has expanded to include a variety of offshoots, such as the Diversion project and the Homemakers Program. N.C.S.A.'s staff has increased accordingly from 15 to over 100 at the present time.

HOW ARE STAFF MEMBERS CHOSEN FOR N.C.S.A.?

Staff members are chosen on the basis of personal stability, knowledge of English and a Native dialect, and willingness to co-operate with others involved in the Justice System. Most Courtworkers live in the same community they work in. While Native Counselling Services of Alberta has the final say in selecting its staff, close attention is paid to the recommendations of Band Councils, Metis locals, and other Native organizations. Most positions are advertised in the Native and non-Native media as they become vacant or new positions are created.

Administratively, Native Counselling Services of Alberta has an Executive Director, an Assistant Director, and area supervisors at the branch offices as well as one for the head office. The Legal Education program, the accountant, training co-ordinator, parole liaison, executive assistant, planning and evaluation co-ordinator, and other resource personnel work from the Edmonton head office.

SUMMARY:

The strength of Native Counselling Services of Alberta lies in its relationship with the Native communities and the agencies of the Justice system. The structure of the Board and the hiring policies for field staff ensures co-operation with, yet independence from, other Native organizations and Government agencies.

The key concept guiding N.C.S.A. in its relationship with the

staff to [illegible] and [illegible] of the Criminal Justice System. Native Counselling Services of Alberta attempts to bridge whatever gaps may exist between the Justice System and Native people. In this way, it hopes to contribute to the achievement of the various goals of the Justice System as well as contributing to the development of a more complete understanding in the Justice System of the needs and concerns of the Native people.

BOARD OF DIRECTORS

WILTON GOODSTRIKER, Standoff, President
JOE CARDINAL, St. Paul, Vice-President
LLOYD GWIN, Grande Prairie, Secretary-Treasurer
SHARON BRAGLIN, Calgary
SAM LABOUCAN, Driftpile
LAWRENCE MACKINAW, Rocky Mountain House
DANNY SINCLAIR, Edmonton

ADMINISTRATIVE STAFF MEMBERS:

CHESTER CUNNINGHAM, Edmonton, Executive Director
HARRY SHANKS, Edmonton, Assistant Director
BOB OGLE, Lethbridge, Area Supervisor
GILBERT TAILFEATHERS, Calgary, Area Supervisor - Criminal Court
FRANK TURNINGROBE, Calgary, Area Supervisor } Family Court
ALEX PICHE, Hobbema, Area Supervisor
CAROLA CUNNINGHAM, Edmonton, Area Supervisor, Criminal Court - Urban
PAT ANDERSON, Edmonton, Area Supervisor, Family Court - Urban
ED CUNNINGHAM, Edmonton, Area Supervisor - Rural
EDDIE GILLIS, Lac La Biche, Area Supervisor
AMANDA BOISVERT, Slave Lake, Area Supervisor
EILEEN KNOTT, Peace River, Area Supervisor
FLORENCE WANUCH, High Level, Diversion Project Coordinator
HARRY PRUDEN, Beaver Lake, Camp Coordinator
MARSHALL HOWSE, Nojack, Camp Coordinator
DEBBIE CHALIFOUX, Edmonton, FLIP Coordinator
GORDON COLLINS, Edmonton, Parole/Institutional Coordinator
KEITH PURVES, Edmonton, Executive Assistant
FRANCIS CAMPBELL, Edmonton, Media Coordinator
DOUG HECKBERT, Edmonton, Training Coordinator
MARIANNE NIELSEN, Edmonton, Planning and Evaluation Coordinator
LORRAINE HOPE, Edmonton, Clerical Staff Supervisor
DON WHENHAM, Edmonton, Accountant

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elopment of Native Counselling Services of Alberta.

There are 30 Criminal Courtworkers located throughout the vince whose duties involve all aspects of the Criminal Justice tem from the laying of charges, trial and sentencing pro- ures, to the post-sentence activities such as imprisonment, ole and ultimately the Native offender's release back into the mmunity.

In addition, their duties include court attendance,appeal, rmation on the law, legal aid applications, appearing for ers (when a legitimate reason is given), speaking to sentence, aining Native interpreters, interpreting and explaining court ers, documents and procedures, community inquiries and ole supervision.

The main concern of the program is to assist Native people in ers to develop a better understanding of their rights, interests, ileges and responsibilities in relation to the Justice System.

MILY COURTWORKERS:

n 1974, the Law Foundation of Alberta provided Native nselling Services of Alberta with "seed money" for one Court- er to work in the Family and Juvenile Courts in Edmonton. The and for more Family Courtworkers was so great that there are ently 30 Courtworkers working in the Family and Juvenile rts throughout the province. These Courtworkers act as on between Native children and parents, Social Workers, and Courts. They ensure Native people in the courts are fully aware

of their rights and responsibilities as well as the procedures involved at each stage of the process.

The Family Courtworkers supervise Native juveniles on probation. They work with Native families to prevent the apprehension of children and assist in re-uniting Native families. The Family Courtworkers provide personal counselling, and facilitate better communication between Native people and their Social Workers. They also provide follow-ups for foster care placement and assist in juvenile programs in detention centres.

HOMEMAKERS:

The Homemakers program began in 1976 as a pilot project in the Edmonton area. Its main objective is to keep Native families intact by assisting with children, housekeeping, budgeting, and counselling in the home. Services provided by the Homemakers include: providing housekeeping and child care for Native women in danger of losing their children due to child neglect, aiding Native women to adjust to the return of children from care; providing counselling and support to aid in a change of lifestyle; and acting as a liaison between clients and social workers. Homemakers provide these services on a fee-for-service basis, when requested to do so by a Family Courtworker or a Social Worker.

LIAISON OFFICERS:

As a result of the high proportion of Native inmates in most prisons, Native Counselling Services of Alberta entered into a contract in 1972 with the Canadian Penitentiary Service to provide services of a Liaison Officer at the Drumheller Institute. A similar contract was signed with the Alberta Correctional Services in 1972 for a Liaison Officer at the Fort Saskatchewan Correctional Institute. At the present time, there are Liaison Officers serving in the majority of the Federal and Provincial Institutions in the province, including: Peace River Correctional (2 officers), Fort Saskatchewan Correctional (2 officers), Calgary Correctional, Lethbridge Correctional, Bowden Institute, Drumheller Institute, and Edmonton Maximum/Grierson Centre.

The Liaison Officers act as contact and resource persons for Native people in the institutions, their families, friends, and other Native organizations. The Liaison Officers help inmates obtain temporary absences, arrange transportation and counsel inmates. They sit on most classification and selection committees within the institutions. The Liaison Officers work with the Native Brother/Sisterhoods and encourage Native inmate involvement in institution and community programs.

PAROLE OFFICERS:

In 1970, the Courtworkers began helping Native inmates formulate acceptable parole plans and assisting Parole Services Officers in the supervision of Native Parolees. This arrangement is now formalized into a fee-for-service contract with the National Parole Service to prepare Community Investigation reports, supervise inmates on Temporary Absence passes and to provide supervision and counselling to Native parolees. N.C.S.A. now has two full-time Parole Officers; one in Edmonton and the other in Calgary.

LEGAL EDUCATION:

For many years, the Courtworkers have been very active in organizing workshops where people from every part of the Justice System meet with Native people in Native communities to explain their duties. The workshops are designed to improve the understanding between Native people and the various parts of the Justice System.

In an attempt to make these workshops even more successful, Native Counselling Services of Alberta obtained funds from the Law Foundation in 1975 to produce [illegible] to show in Native communities. The presentations deal with issues such as glue-sniffing, arrest procedures, child welfare matters, and Native alcoholism. In addition, the program will produce shows designed to sensitize the Justice system to the concerns of Native people and the problems faced by Natives in conflict with the law. These productions are available to the general public from the local Courtworkers.

FORESTRY CAMPS:

N.C.S.A. currently operates 2 Forestry Camps — one in the Beaver Lake area and one in the Nojack area.

The Beaver Lake Camp, a minimum security camp near Lac La Biche, is designed to hold a maximum of 20 inmates from Fort Saskatchewan Correctional Institution. Most inmates have less than three months left on their sentences. The objective of the program is to provide men of primarily Native origin an alternative work and leisure program not readily available in conventional provincial institutions.

This is a joint venture of N.C.S.A. and the Solicitor General, which began September, 1978. It is staffed by Native Camp Officers, not correctional officers. Working on normal incentive pay ($5.00/per day), the inmates will be involved in forestry work and community projects. The aim of the project is to prevent recidivism by involving the inmates in the community and using its resources, by providing counselling from N.C.S.A. and other social agencies, by teaching life and work skills and by aiding the inmate to find permanent employment on release.

The Nojack camp, which began operation in November, 1979, is set up on the same model as the Beaver Lake camp except that hourly wages are paid to the residents and they can remain employed by the business after serving their sentence.

THE HIGH LEVEL DIVERSION PROJECT:

The High Level Diversion project was begun as a pilot project in 1977 and is now in full operation. Working on a basis of discussion between the victim, the offender, and the community, the project is designed to offer an alternative to existing dispositions such as arrest and sentencing, at both the pre-charge and post-charge stages for selected charges. Its aim is to involve the community in the diversion process.

With the aid of the diversion worker and a screening committee from the community, a diversion program is worked out for each offender. This project serves both Natives and non-Natives.

THE FAMILY LIFE IMPROVEMENT PROGRAM (F.L.I.P.):

'FLIP' began operation in 1979 as a program designed to provide assistance to people experiencing difficulties in their family situations. Clients are given information on a variety of topics aimed at aiding them to find solutions to family problems, for example: child development, self-awareness, welfare, sexual relationships, discipline and communication, and family relationships. Formal classes are interspersed with day trips to various relevant social service agencies, and with recreational activities (to develop an awareness of constructive leisure time use, and to practice one-to-one interaction).

OTHER N.C.S.A. PROGRAMS:

N.C.S.A. also sponsors a number of secondary programs in special areas which are carried out by Courtworkers as an extension of their normal duties. These include:

THE STANDOFF IMPAIRED DRIVING PROGRAM:

The Impaired Driving Program is a course offered [illegible] who h[illegible] en ct[illegible] d of [illegible] relate [illegible]ing Drivers. It [illegible] ...ople ...ous use of the [illegible] a ...

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APPENDIX "D"

WORKSHOP WRAP-UP (SEPTEMBER 1981)

JUSTICE-RELATED CHILDREN AND FAMILY SERVICES

FOR NATIVE PEOPLE IN ONTARIO

In response to the questions:

(I) Is there a role for Council in this field?

(II) Name 2 (two) priorities or alternatives (be specific) that the council should pursue - explain why and develop alternative.

(III) What area should the council not be involved in?

the following group responses were developed:

(I) All three workshop groups agreed that council should be involved in Justice-Related Children and Family Services.

(II) General Priorities (Not necessarily in order of importance):

(A) Data Base

All three groups saw this as a necessary step, i.e.:

- "Co-ordinate and compile information available."
- "given organizations do not have available human resources, ONCJ could package available information and make widely available at community level (cataloguing existing data, analyzing relevancy and application)."

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(B) Cultural Sensitization

- "Sensitization of any points of contact the native child has with the system i.e. government-

sponsored agencies, Children's Aid Societies, Assessment Centre, Probation and Aftercare."

- "Does ONCJ presently have capability to be involved in this area?"
- "Education of non-native foster parents and social service personnel."
- "More native awareness programs and education for judges, foster parents, and social workers."

(C) Legislative Change

- "Omnibus Legislation - Do we want separate legislation or can concerns be integrated into legislation? Work with OFIFC and ONWA - research function?"
- "define responsibilities of each level, i.e. what is responsibility of organization and communities and ONCJ vis-a-vis children services?"
- "Should be significant Native input into Omnibus - exploration by organizations and communities of how and what to input."
- "Clarification of Omnibus legislation timetable."
- "requires immediate action"
- "ONCJ role in initiating legislation change?"
- "Role of political organizations?"
- "Involvement of Native Lawyers Association - Legislation Child Welfare Act."
- "Adoption and Substitute care."
- "Maybe we could or should leave Omnibus to OFIFC and ONWA and not compete?

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(D) Programmes

- "Life Skills and Parenting - incorporating cultural and spiritual development."
- "Prevention programmes"

"Set up juvenile court committee to make recommendations to the court."

"Development of Family Courtwork programs."

"Short term - more involvement at reserve level in present programmes i.e. C.A.S."

(III) "Council should not ~~get~~ bogged down on constitutional question, jurisdictional question, and areas where programs available i.e. alcohol and drug abuse."

Bryan Loucks
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(Sept. 30, 1981)

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APPENDIX F

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APPENDIX F

Bibliography

A. Research Papers on Native Child and Family Services

Abugov, Albert. A Review of the Socio-Economic and Demographic Data Relevant to Assessing Child Welfare Needs in Northern Ontario. Administrative Staff of Northern Ontario Children's Aid Societies & Ontario Association of Children's Aid Societies. September 1980. 65p.

Castellano, Marlene. Indian Identity and Its Implications in the Institutional Setting - Part I. Trent University. 1974. 13p.

Grand Council Treaty 9, Child Welfare/Social Services Program. Children's Aid Society Information Kit. Children's Aid Societies. 1978.

McCaskill, Don. Patterns of Native Criminality - Part II. Trent University. 1974 10p.

Ministry of Community & Social Services. The Report of the Ontario Working Group on Residential Services for Native People. March 1981. 23p.

Native Canadian Centre of Toronto. Family Needs Survey Part I. 1979. 69p.

Native Canadian Centre of Toronto. Family Needs Workshop - Transitional Leap - Final Report. Nov. 1980.

Ontario Indian Education Council. Standards & Controls: An Assessment of Cutbacks in Indian Education. July 1981. 27p.

Ryan, Robert A. Strengths of the American Indian Family: State of the Art. American Indian Family Research Institute. April 1980. 24p.

Technical Assistance and Planning Associates Limited. for the Tripartite Social Services Review Committee.
A Starving Man Doesn't Argue. A Review of Community Social Services to Indians in Ontario. July 1979.
Indian Community Control of Indian Social Services. Ontario Social Services Review Phase II.
Community Care: Toward Indian Control of Indian Social Services. December 1980.
Social Services Review(Phase II) Alternatives. May 1980.
Social Services Review (Phase II) Alternative Cycle III - Transitional Alternatives. June 1980.
Statistics on Services and Costs - Appendix D.

B. Federal and Provincial Legislation

Government of Canada.

Juvenile Delinquents Act. 1908 (revised in 1929)

Legislative Proposals to Replace the Juvenile Delinquents Act. Solicitor General of Canada. Oct. 1979.

Young Offenders Act, Bill C-61. First Reading. Feb. 1981.

The Young Offenders Act. Highlights. Solicitor General of Canada. Feb. 1981.

Young Offenders Act Introduced. Liaison, Ministry of Solicitor General. March 1981.

Young Offenders Get Last Chance at Montreal Centre. Liaison, Ministry of Solicitor General. June 1980.

Government of Ontario.

Guidelines for Reporting to the Register - Child Abuse. Ministry of Community & Social Services, Children's Services Division. Feb. 1981.

Standards and Guidelines - Child Abuse. Ministry of Community and Social Services, Children's Services Division. Feb. 1981.

Child Welfare Act, 1978.

Bill 114 - An Act to Revise the Child Welfare Act - 1978.

Protection and Care of Children, The Child Welfare Act, 1978. Ministry of Community and Social Services. June 1979.

The Children's Law Reform Act, 1977. April 1, 1980.

Day Nurseries Services: Proposed Standards and Guidelines. Ministry of Community and Social Services, Children's Services Division, Feb. 1980.

The Education Act 1974, Bill 72. Excerpts.

Report on Family Law (Part V) Family Courts. Ontario Law Reform Commission, Ministry of Attorney General.

Family Law in the Family Courts. Judge David M. Steinberg. Second Edition, Vol 1. 1981.

The Family Law Reform Act, 1978. Ontario Regulation 215/78. Dec. 1980.

Family Law Reform - Your New Rights. Ministry of the Attorney General.

Procedures and Practices in the Provincial Courts, Family Division. Ministry of Community and Social Services, Children's Services Division. June 1979.

The Private Adoption Agency. Ministry of Community and Social Services, Children's Services Division. June 1979.

The Training Schools Act. December 1979.

C. Reports Regarding Children's Services and Programs

Beauval Community Correctional Advisory Board. Beauval Community Correctional Advisory Board Correctional Alternatives Project. Beauval, Saskatchewan. May 1981.

Canadian Indian Lawyers Association of Winnipeg. Indian Child Welfare Workshop. April 1980.

Delta Youth Diversion and Crime Prevention Society. Delta Youth Diversion and Crime Prevention Society Report. British Columbia. 1979.

Kenora District Family & Children's Services. Osnaburgh Child Welfare Program.

Manitoba Child Welfare Directorate 1980. Manitoba Indian Adoption Program. 1980. 25p.

Ministry of Community and Social Services, Children's Services Division. Funding of Status Native Child Welfare Programme. Feb. 1980.

Ministry of Community and Social Services, Children's Services Division. Native Community Project, Draft #1. Info Package. Feb. 1979.

Ministry of Community and Social Services, Children's Services Division. A Proposed Design for the Evaluation of the Native Children Welfare Program.

National Indian Brotherhood. Working Together for Children. Workshop re: Adoption. 1979.

Native Law Association Conference. Indian Child Welfare. B.C. Aug. 1979.

Native Organizations of Ontario. Native People and the Criminal Justice System. Feb. 1974.

Ontario Federation of Indian Friendship Centres.
Li'l Beavers of Ontario

School of Social Work, University of Manitoba. Evaluation of Native Children Welfare Prevention Project. Ministry of Community and Social Services.

Solicitor General of Canada. Community Kit for the Development of Juvenile Diversion Projects. 1979.

D. Ministry of Community and Social Services - Children's Services Division - Miscellaneous Program Reports and Discussion Papers.

Child Abuse Program - A Compendium of Local Activities Jan. 1981.

Child Advocacy - Implementing the Child's Right to be Heard. Discussion Paper. Oct. 1980.

Consultation Paper: Children's Services [illegible] Present and Future. Dec. 1980.

Consultation Paper in Case Information Disclosure. Oct. 1979.

The Family as a Focus for Social Policy. A Brief Description of the Government of Ontario's Programs that Assist Families. Sept. 1979.

Foster Care. Sept. 1979.

Observation and Detention Services for Children in Toronto.

Operational Review - Observation and Detention - Report Three. Sept. 1973.

Program Priorities for Children's Services in 1978.

A Review of Four Systems for Classifying the "Impossible" Child and Adolescent. Jerome D. Pauker, Ph.d., Eric Hood, M.B. ChB., F.R.C.P. Oct. 1979.

The Role of the Lawyer in Legal Representation of Children. 1981.

Secure Services Paper. A Public Policy Statement. Jan. 1981.

The State of the Art. A Background Paper on Prevention. Oct. 1979.

Training Program for Children's Aid Societies. Introduction and Readings. Vol. 1. Aug. 1980.

E. Reports on Legal Aid and Legal Services

Federal Department of Justice and Government of the Northwest Territories. Legal Aid in the Northwest Territories. June 1977.

Frewin, C. C. Ed. D., F.A. Maunula, M.A. A Process Evaluation of the Thunder Bay District Native Legal Counselling Services. Jan. 1980.

Haveman, Paul. Regina Native Council Project. 1979.

Native Counselling Services of Alberta. Native Counselling Services of Alberta Annual Report. March 1980.

F. Statistics - General Indian Population

Department of Indian Affairs and Northern Development. Population Projections for the Registered Indian Population 1973-1990. Andrew J. Siggner, Program Statistics Division. Aug. 1977.

Department of Indian Affairs and Northern Development. A Demographic, Social and Economic Profile of Registered Indians in Ontario. Research Branch. Oct. 1979.

Grand Council of the Anishinabek. Ketche Kikidownenewuk Anishinabek. July 1981. Report on structure of Council.

Hepworth, H. Philip. Canada's Social Orphans. Associate Professor, University of Regina. Jan. 1979. Excerpt from The Canadian Council on Social Development.

G. Native Child Welfare - Miscellaneous Articles

Sanders, Douglas. "Natural Parent vs. Superintendent of Child Welfare" in Osgoode Hall Law Journal. (Vol. 14, No. 2 - 1976)

Department of Indian Affairs. Table on Adoption of Indian Children. (May, 1979)

Forest Standard, "Youth and the Law". (November, 1970)

Family Involvement Journal. (Vol. 10, No. 5 - 1978), "Children's Rights and Adoption".

Ontario Native Women's Association. Minutes of 1981 Annual Meeting - Reference to Child Welfare and Adoption.

Department of Indian Affairs. Background Paper for the Evaluation of Child Welfare Services.

Native Law Centre, University of Saskatchewan. Indian Child Welfare - Whose Responsibility? (1981)

Solicitor General of Canada. Response of the Solicitor General of Canada to the Metis and Non-Status Indian Crime and Justice Report. (1980)

H. Native Child Service Proposals

Canadian Council on Social Development. Child Welfare and Native Peoples. An Investigation of the Impact of Canada's Child Welfare System on Native Families and Children. June, 1981)

Naicatchewenin Band. Response to Children's Services Proposal for Regional Committee. (December, 19[illegible])

Stoney Creek Indian Band. The Child Welfare Committee. A Self-Help Group for Indian Reserves. (April, 1979)

Ad Hoc Committee for Parent/Child Support Programs. Parent/Child Support Program for Walpole Island Reserve. (1981)

Children's Aid Society of the City of Sarnia and the County of Lambton. Lambton County Native Children's Services. Growth and Prevention. (June, 1981)

I. Indian Child Welfare Act and Other Related Materials (U.S.A.)

Indian Child Welfare Act (1978) Public Law 95-608.

Miller, Dorothy L., Hoffman, Fred and Denis Turner. "A Perspective on the Indian Child Welfare Act" in Social Casework. (October, 1980)

Fischler, Ronald S. "Protecting American Indian Children" in Social Work. (September, 1980)

Blanchard, Evelyn Lance and Russel Lawrence Barsh. "What is best for tribal children? A response to Fischler" in Social Work. (September, 1980)

Shore, James H. and William M. Nicholls. "Indian Children and Tribal Group Homes: New Interpretations of the Whippe-Man" in American Journal of Psychiatry. (April, 1975)

Association on American Indian Affairs Inc. "Foster Care Standards and Procedures" in Indian Family Defense. (December, 1976)

Lansing Indian Center, Michigan. Native Child Welfare Program. (June, 1981)

Native American Child Protection Council. Miscellaneous Materials. (1972)

McDonald, Gail. "Notes on Indian Child Welfare Act of 1978" in Indian Family Reference. (February, 1979)

Hostbjor, Stella. "Social Services to the Indian Unmarried Mother" in Child Welfare. (May, 1961)

Goodluck, Charlotte Tsoi and Deidre Short. "Working with American Indian Parents: A Cultural Approach" in Social Casework (October, 1980)

Jones, Dorothy M. "Child Welfare Problems in an Alaskan Native Village" in Social Service Review. (1969)

Farris, Charles E. and Lorene S. Farris. "Indian Children: The Struggle for Survival" in Social Work. (September, 1976)

Berlin, Irving N. "Anglo Adoptions of Native Americans: Repercussions in Adolescence" in Pediatrics. (December, 1978)

Jenkins, Alma. "Some Evaluative Factors in the Selection of Adoptive Homes for Indian Children" in Child Welfare. (June, 1961)

Lyslo, Arnold. "Adoptive Placement of American Indian Children with Non-Indian Families - Part I: The Indian Adoption Project" in Child Welfare. (May, 1961)

Davis, Mary S. "Adoptive Placement of American Indian Children with Non-Indian Families - Part II: One Agency's Approach to the Indian Adoption Project" in Child Welfare. (June, 1961)

Carpenter, Edward M. "Social Services, Policies and Issues" in Social Casework. (October, 1980)

Ryan, Robert A. "A Community Perspective for Mental Health Research" in Social Casework. (October, 1980)

National Congress of American Indians. Miscellaneous Materials. (February, 1979)

Association on American Indian Affairs, Inc. "Statement of Steven Unger to the Select Commission on Immigration and Refugee Policy". (May, 1980)

Women's Liberation, News and Letters Committee. Material re: Child Protection Group in Canada. (February, 1977)

A Model Child Protection Services Act from a Reservation Tribal Code.

National Indian Child Abuse and Neglect Resource Centre. The Indian Extended Family Concept and Its Relationship to Parenting. (1980)

National Indian Child Abuse and Neglect Resource Centre. The Social Worker and the Indian Client.

J. Children's Services' Newsletters, Ministry of Community and Social Services